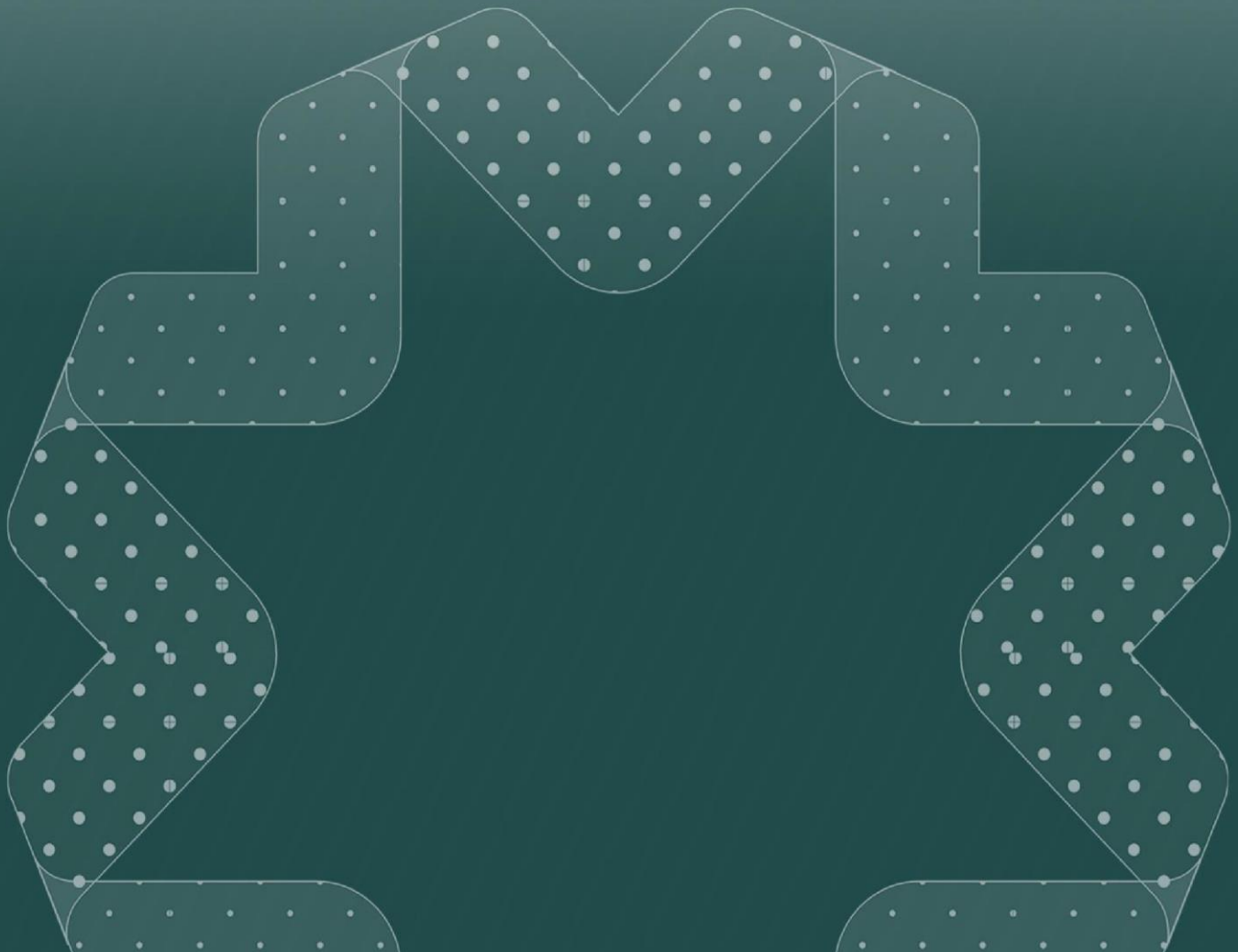
الأمانة العامة للجان الزكوية والضريبية والجمركية
General Secretariat of Zakat, Tax and Customs Committees

Tax Committees Decisions for 2022 AD

(Zakat)

Volume (1)



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In the Name of Allah, Most Gracious, Most Merciful

Introduction

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

It goes without saying that the efforts made by the courts and judicial commission, and the rulings and Decisions delivered by them are in their entirety a priceless jurisprudential and judicial wealth, and a product that should be taken care of, and in the context of the commercial and industrial revolution that the Kingdom is going through under the Saudi Vision 2030, many zakat and tax controversies have arisen affecting many people. Therefore, and based on the social responsibility of the General Secretariat of the Zakat, Tax and Customs Committees, the Secretariat has sought to create a solid foundation and reference for the committee members, zakat payers and interested parties by publishing the final Decisions issued by the tax committees in 2022, thus contributing to effective settlement of zakat and tax disputes, and limiting the time taken for deciding upon case. This record clarifies the Decisions that the committees have reached, which would have a positive impact on shortening the litigation period, saving efforts for the case examiner, fulfilling the principle of transparency pursued by the General Secretariat, and introducing the practical aspects to the bodies concerned with legal research, in particular the academic, training and other bodies.

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

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

Praise be to Allah almighty,

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

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

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

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

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

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

Secretary General

Abdullah bin Abdulrahman Al-Suhaibani

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Work Methodology:

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

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

- Inventorying the final Decisions issued by the tax committees in relation to zakat during 2022.
- Indicating the name of the Department that delivered the Decision in addition to the Decision number and date of issue.
- Setting keywords to facilitate search process.
- Providing Abstract of Decision outlining key points.
- Indicating the Grounds on which the Department based its Decision while providing links that support such Grounds, if any.
- Ensuring anonymity of litigants and other involved parties without affecting Decision.
- Checking Decisions to ensure they are free from any linguistic and spelling errors.
- Classifying Decisions objectively as appropriate and placing each Decisions under its relevant classification.

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Decision based on Formal Aspect

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Decision No. ISR-2022-1338
Case No. Z-36220-2021

Keywords
Zakat - Estimate - Lack of Capacity

Abstract

The Zakat Payer instituted this case moving to cancel ZATCA's Decision on Zakat assessment for the year 2016. Having reviewed the case file, the Department found that on 22/06/1442 AH corresponding to 04/02/2021 AD, a person who was found to have no capacity under this case or connection to the Company filed this case through the e-portal of the General Secretariat. Hence, the Department didn't identify the capacity of the persons who instituted the case on behalf of the Company. Therefore, the Department dismissed the case for lack of capacity.

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. 26040 of 21/04/1441 AH.
- Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH
- Article 76.1 of Law of Civil Procedures promulgated by Royal Decree (M/1) of 22/01/1435 AH
- Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

The Facts of this case are summed up in that Mr....., National ID No..... filed on behalf of .....Company , C.R.No. ....., an objection to the estimated Zakat assessment for the year 2016 AD.

On Tuesday 23/08/2022 AD, the Department held its session remotely to hear the case. For the Defendant appeared Mr.....in has capacity as the Defendant's representative pursuant to authorization No. ....., while the Plaintiff did not attend nor did he send an attendance excuse despite being duly notified of the date of session. In the session, the Department, having reviewed the case file, found that the case was filed by Mr.... in his capacity as attorney for ..... and for ..... in their personal capacity. The Department also found that the commercial registration No.....of ..... Co mpany was canceled on 08/04/1442 AH. Accordingly, the case was closed for deliberation.

Grounds

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

Since one of the primary matters that the Department should determine before proceeding to the subject matter of case is to verify the capacity of the parties to the case which the Department determines on its own motion as per Article 76.1 of Law of Civil Procedures, which states that: "A motion for lack of jurisdiction; type or value of the suit; dismissal of the suit for lack of capacity, interest or any other ground; or if the suit has been previously decided, shall be admissible at any stage of the hearing and shall be decided by the court on its own motion." The case file indicates that on 22/06/1442 AH corresponding to 04/02/2021 AD, Mr..... filed this case through the e-portal of the General Secretariat of the Zakat, Tax and Customs Committees on behalf of .....Company, Commercial Registration No. ..... providing a power of attorney for 1. ..... 2. ....., whose capacity and relationship to the Company were not identified. It was also found that the commercial registration no.....of Company as per the copy attached to the case file had been canceled on 08/04/1442 AH and that the reason for cancellation was "lack of economic feasibility of practicing the activity", meaning that the date of cancellation of the commercial registration preceded the filing of the case. Therefore, the capacity to file the case on behalf of .....Company was not identified despite the cancellation of the Company's commercial registration and dissolution of its legal capacity. Accordingly, the Department concluded to dismiss the case for lack of capacity.

Decision

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

Dismiss the case filed by ....., ID No. ....., on behalf of .....Company, Commercial Registration No. ..... against the Defendant ZATCA for being brought by a person with no capacity to file it as per the above-stated Grounds.

This Decision was delivered in the presence of the Defendant and as if in presence of the Plaintiff, and was read out publicly in the session. The Department set Wednesday, 08/31/2022 for receiving a copy of the Decision, and any of the parties to the case may appeal against the Decision within thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision will be final and enforceable.

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

(This judgment has become final due to the expiration of the period set for challenging the same as per Article 40 of the was obtained after the expiry of the objection period based on Article (40) of the Tax Dispute and Violation Committee Procedures)

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Tax Committees for Resolution of Tax Violations and Disputes

First Department for Determination of Income Tax Violations and Disputes In Riyadh city

Decision No. IFR-2022-1839
Case No. 94257-2022-Z

Keywords

Zakat - Accounts - Premature Filing of Case

Abstract

The Zakat Payer instituted this case to cancel ZATCA's Decision regarding the zakat assessment for the year 1442 AH. The Department having reviewed the case papers has established that the Zakat Payer filed the case on 03/02/2022 AD, but he did not submit an objection to ZATCA as per his statement. Accordingly, the Department decided to dismiss the case for being filed prematurely.

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Articles 2 and 20.1 of the Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. (26040) of 21/04/1441 AH
- Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH
- Articles 55 and 56 of the Law of Civil Procedures promulgated by Royal Decree No. (M/1) of 22/01/1435 AH
- Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

The Facts of this case are as follows: The Plaintiff Mr....., National ID No. ..., Filed this case in has capacity as the owner of a branch of .....establishment, C.R. No. ....., objecting to the zakat assessment for the year 1442 AH, issued by ZATCA.

Having presented the statement of claims to the Defendant, it responded that it moves to dismiss the case in form for the lapse of the period specified for filing an objection to the Defendant according to Article 3 of the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, preserving however the right to submit further responses and clarifications before closing the pleadings.

On Thursday 05/02/1444 AH, the Department held its session remotely to consider the case. Neither the Plaintiff nor his attorney appeared, despite being duly notified of the date of session. For the Defendant, Ms. .....appeared in her capacity as the Defendant's representative by virtue of an authorization, a copy of which is included in the case file. Having asked the Defendant's representative about the Plaintiff's claims, she maintained the same statements provided in the Defendant's plea requesting the Department to not accept any further Documents that were not submitted to the Defendant during the inspection and objection stage. Having asked the Defendant's

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representative if she had any other statements, she answered “no”. Therefore, the Department decided to close the pleading and deliberation.

Grounds

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

In form: the Plaintiff initiated this action to cancel ZATCA’s Decision regarding the zakat assessment for the year 1442 AH. Since this dispute is a zakat dispute, it falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes pursuant to Royal Order No. (26040) of 21/04/1441 AH; and since hearing this case is conditional upon objecting to ZATCA’s Decision within (60) days from the date of notification of ZATCA’s Decision based on Article (2) of the Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. (26040) of 21/04/1441 AH, which provides that: "Any person against whom a Decision has been issued by GAZT may file an objection before it within 60 days from the date of notification thereof. GAZT shall decide on the objection within 90 days from the date of filing. If a Decision is made to deny the objection or a period of 90 days lapses without deciding thereon, a taxpayer may, within 30 days from the date of being notified of the denial of the objection or upon the lapse of 90 days without a Decision thereon, take any of the following actions: 1. Request the referral of the objection to the internal committee for settlement. If a taxpayer rejects the internal committee’s Decision or if the period specified in the Settlement Procedures lapses without reaching a settlement, the taxpayer may file a lawsuit 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 lawsuit shall not include issues settled with the internal committee. 2. File a lawsuit directly before the dispute committee.”; and since the case papers indicate that the Plaintiff filed the case on 03/02/2022 AD, and did not submit an objection to ZATCA as per his statement nor did he provide an evident excuse for not being able to file an objection to ZATCA, therefore, this case is deemed to have been brought prematurely, and it is hence inadmissible in form.

As for the absence of the Plaintiff and his representative from the hearing despite being duly served a notice, where Article 20.1 of the Tax Dispute and Violation Committee Procedures provides that: "If a plaintiff fails to attend any hearing after being notified of the date set for consideration of the suit without an excuse acceptable to the circuit, the circuit must decide the suit if it is ripe for judgment", and

Article 56 of the Law of Civil Procedures provides that: "In the cases provided for in Article 55 of this Law, if the defendant attends the hearing from which the plaintiff is absent, he may petition the court not to dismiss the case and to render a Decision on its merits; in which case, the court shall rule on such case and the judgment shall be considered in absentia with respect to the plaintiff”, and since the Plaintiff did not submit a reasonable excuse for absence, and the Department has deemed that the case is ripe for adjudication according to the case papers, it concludes to deliver its Decision in this case as in presence of the Plaintiff.

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

Decision

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Dismiss the case filed by the Plaintiff....., TIN..... against the Defendant ZATCA for the Plaintiff has not submitted an objection to the Defendant's Decision within the specified period.

This Decision was delivered in presence of the parties. The Department set Sunday 20/03/1444 AH for receiving a copy of the Decision. Either party to the case may appeal against the Decision within thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision will be final and enforceable.

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

(This judgment has become final due to the expiration of the period set for challenging the same as per Article 40 of the was obtained after the expiry of the objection period based on Article (40) of the Tax Dispute and Violation Committee Procedures)

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Keywords
Zakat - Accounts - Res Judicata - Already Decided

Abstract

The Zakat Payer filed this case to cancel ZATCA's Decision regarding the zakat assessment for the year 1434 AH, and where he submitted an objection to the zakat assessment for the year 1434 AH issued by ZATCA. and where the Department has find that the case has been previously decided, Therefore, the Department ruled to dismiss the case for being previously decided.

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. 26040 of 21/04/1441 AH.
- Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH
- Article (76) of the Law of Civil Procedures promulgated by Royal Decree No. (M/1) dated 1/22/1435 AH
- Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

The Facts of this case are summarized as follows: The Plaintiff Mr. ..... National ID No. ..., in his Capacity as the owner of ....., C.R. No. ..., filed an objection to the zakat assessment for the year 1434 AH issued by ZATCA.

Having presented the statement of claims to the Defendant, it argued that the case should be dismissed in form for the Plaintiff has not submitted an objection before it within the specified period, based on Article 3 of the Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. (26040) of 21/04/1441 AH, preserving its right to submit further responses and clarifications before closing the pleadings.

On Monday 22/10/1443 AH, the Department held its session remotely to consider the case. Neither the Plaintiff nor his representative appeared despite being duly notified of the session. For the Defendant appeared Ms....., National ID No. ....., in her capacity as ZATCA's representative pursuant to Authorization No. ..... Dated ../../..... AH issued by

ZATCA's Deputy Governor for Legal Affairs and Compliance. Having asked the Defendant's representative about the Plaintiff's claims, she replied that she maintains the statements included in the Plea submitted by the Defendant requesting the Department to not accept any further Documents that were not submitted to the Defendant during the

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inspection and objection stage. Having asked the Defendant's representative if she had any other statements, she answered "no". Therefore, the Department decided to close the pleading and deliberation.

Grounds

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

Since the determination of jurisdiction to hear this case is one of the preliminary matters that should be decided proceeding to the subject matter of case, where the Department should determine if it has jurisdiction to hear the case or not, and if not, to rule that it should not hear the case for lack of jurisdiction. Also, Article 76 of the Law of Civil Procedure provided that: .." The plea to dismiss the case for being previously decided may be entered at any stage of litigation which the court shall decide on its own....". Since it has been established that the subject matter of the case was previously decided upon by the First Department for Determination of Income Tax Violations and Disputes in case No. (80955-2021-Z) dated 06/11/2021 AD, the Department ruled to dismiss the case filed by Plaintiff..... TIN..... against the Defendant ZATCA for not submitting an objection to ZATCA's Decision subject matter of dispute within the specified period; and since it is legally and judicially established that a case that has been previously decided by a final ruling cannot be brought before any court of law except if such ruling is refuted or required to be reconsidered by the law. This is to avoid undermining the force and stability of judicial rulings, and entering into endless loop of objections, and also to preserve the status of the judiciary before the public, in addition to avoiding differences and chaos upon enforcement. Not hearing a case for being previously decided is the negative effect of res judicata force that prevents hearing the same dispute after being settled by a final ruling by any other court in a first instance case. For a res judicata force to be validated, the case should have the same litigants, subject matter and Grounds. As such, the Department has reached the conclusion contained in the operative part of Decision.

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

Decision

Dismiss the case submitted by the Plaintiff Plaintiff..... TIN..... against the Defendant ZATCA for being previously decided.

This Decision was issued in the presence of both parties. The Department set Tuesday 15/11/1443 AH for receipt of a copy of the Decision. Either party to the case may appeal against the Decision within 30 days from the day following the date set for receipt of the Decision, whereafter, the Decision will be final and enforceable.

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

(This judgment has become final due to the expiration of the period set for challenging the same as per Article 40 of the was obtained after the expiry of the objection period based on Article (40) of the Tax Dispute and Violation Committee Procedures)

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Keywords
Zakat - Accounts - Dismissal for Duplicate Case

Abstract

The Zakat Payer filed this case to cancel ZATCA's Decision regarding the zakat assessment for the year 2017 AD. Since the Plaintiff has submitted an objection to the zakat assessment issued by ZATCA for the year 2017 AD; Since the Department has found according to the case papers that the Zakat Payer has a previous case brought before the Secretariat under No. (89237-2021-Z) of 28/12/2021 AD on the same subject and the same year; and since the law prohibits that the same subject matter is considered in two cases at the same time. Therefore, the Department concluded to dismiss the case.

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. 26040 of 21/04/1441 AH.
- Income Tax Law promulgated by Royal Decree No. (M/1) of 15/01/1425 AH
- Article (75) of the Law of Civil Procedures promulgated by Royal Decree No. (M/1) dated 1/22/1435 AH
- Implementing Regulations of Income Tax Law issued by Minister of Finance's Decision No. (1535) of 11/06/1425 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

The Facts of this case are summed up in that Mr..... National ID No. ..., in his capacity as the attorney for the Plaintiff.....Company, TIN No....., filed an objection to the zakat assessment issued by ZATCA for 2017.

Having presented the statement of claims to the Defendant, it argued that the case should be dismissed for having a pending case with the same subject matter registered with No. 89237-2021-Z .

On Wednesday, 10/08/2022, the Department held its session remotely to hear the case. Having called the parties, it was found that no one appeared for the Plaintiff, despite being duly notified. For the Defendant appeared Mr. ....., National ID No. ....., in his capacity as the Defendant's representative by virtue of Authorization No. .....dated ../../..... AD issued by ZATCA's Deputy Governor for Legal Affairs. Having asked the Defendant's representative about his response to the Plaintiff's claims, he replied that he maintains the Defendant's statements contained in its plea submitted to the General Secretariat. having asked the Defendant's representative if he had any other statements,

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he replied "no". Therefore, the Department decided to close the pleadings and deliberation.

Grounds

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

In Form: the Plaintiff filed this case moving to cancel ZATCA's Decision regarding zakat assessment for the year 2017 AD. Since this dispute is a zakat dispute, it then falls within the jurisdiction of the Committee for Determination of Income Tax Violations and Disputes pursuant to Royal Order No. 26040 of 21/04/1441 AH. However, Article 75 of the Law of Civil Procedures issued by Royal Decree No. (M/1) dated 22/01/1435 AH provides that "Motions for the invalidity of the statement of claim, improper venue, or for transferring the case to another court because the same dispute or another related case is filed with said court, shall be presented before any request or defense is made in the case; otherwise, any right not so presented shall be forfeited"

Based on the above, and since it was established that the Plaintiff has a previous case registered with the Secretariat under No. (89237-2021-Z) of 28/12/2021 AD with the same subject and the same year, and since the Law does not permit the same subject to be considered at the same time, even if the subject matter of the case has not been already decided and acquired the force of res judicata. Hence, the Department concludes to dismiss the case in form.

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

Decision

Dismiss in from the case filed by .....Company, TIN No.....

This Decision was delivered in presence of the parties. The date of entering the Decision in the e-system of the General Secretariat is considered the date of delivery of Decision. Either party to the case may appeal against the Decision within thirty days from the day following the date set for receipt of the Decision, whereafter, the Decision will be final and enforceable.

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

(This judgment has become final due to the expiration of the period set for challenging the same as per Article 40 of the was obtained after the expiry of the objection period based on Article (40) of the Tax Dispute and Violation Committee Procedures)

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Committee for Determination of Tax Violations and Disputes

First Department for Determination of Income Tax Violations and Disputes In JeddahJeddah

Decision No. IZJ-2022-1223
Case No. Z -81612-2021

Keywords

Zakat - Accounts - Dismissal for Failing to Provide Necessary Aspects of Case

Abstract

The Zakat Payer filed this case to cancel ZATCA's Decision regarding the zakat assessment for the years 1433 AH to 1437 AH after submitting an objection to ZATCA regarding the same matter. Given that a key condition for accepting the case is that the Plaintiff propeorly state the main aspects of its claim so that the Department can decide upon. In this case, the Department has established that the Zakat Payer failed to state the necessary aspects of his case. Therefore, the Department ruled to dismiss the case.

Documents:

- Article 8 of the Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. 26040 of 21/04/1441 AH
- Article (66) of the Law of Civil Procedures promulgated by Royal Decree No. (M/1) dated 1/22/1435 AH

Facts

The Facts of this case are summarized as follows: The Plaintiff....., National ID No....., filed an objection to the zakat assessment issued by ZATCA for the years 1433 AH to 1437 AH. Having presented the Plaintiff's statement of claims to the Defendant, it entered a defense to dismiss the case in from on Grounds that the Decision had become final. On Tuesday, 07/06/2022 AD, the Department held its session remotely to consider the case. No one appeared for the Plaintiff despite being duly notified of the date of session. For the Defendant, Mr....., National ID Number:..... appeared under Authorization No..... dated ../../..... issued by ZATCA's Deputy Governor for Legal Affairs. Having reviewed the case file, the Department established that it was ripe for adjudication as per Article 20 of Tax Dispute and Violation Committee Procedures. Therefore, the Department decided to close the pleadings and deliberation.

Grounds

Having reviewed the relevant laws and regulations and having found that the Plaintiff did not state the necessary aspects of his claim; and based on Article 8 of the Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH; and given that a primary condition for accepting the case is that the necessary aspects of the case be stated insofar that the Department can decide thereupon as per Article 66 of the Law of Civil Procedures; and since the Department has established that the Plaintiff did not state the necessary aspects of his case; therefore, the Department rules to dismiss the case in form.

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Decision

Dismiss the case in form due to the above-stated Grounds.

The Decision was made in presence of both parties as per Article 56 of the Law of Civil Procedures. The Department has set thirty days for receipt of a copy of the Decision through the website of the General Secretariat of Zakat, Tax and Customs Committees. This Decision is final and enforceable as per Article 42 the Tax Dispute and Violation Committee Procedures.

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

(This judgment has become final due to the expiration of the period set for challenging the same as per Article 40 of the was obtained after the expiry of the objection period based on Article (40) of the Tax Dispute and Violation Committee Procedures)

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes in Riyadh

Decision No. IR-2022-269
Case No. Z-30213-2020

Keywords

Zakat - Accounts - No Jurisdiction for the Board of Grievances - Prescription

Abstract

The Appellant (Zakat Payer) challenges the Tax Appeal Committee's Decision No. (1905) regarding the zakat assessment for the year 2007 AD. According to the statement of appeal submitted by the Company, the Board of Grievances delivered a judgment on 08/11/1441 AH regarding the subject matter ruling that it has no jurisdiction to hear the case. After that, the Zakat Payer filed this appeal on 18/04/1442 AH. Accordingly, the Department dismissed the appeal for being filed after expiration of the period prescribed by law.

Documents

- Clause (Second) of the Tax Dispute and Violation Committee Procedures issued by Royal Order No. (26040) of 21/04/1441 AH

Facts

The Department held its session to consider the appeal submitted on 18/04/1442 AH, corresponding to: 03/12/2020 AD, by Mr....., National ID No. …., in his capacity as the attorney for the Appellant Company by virtue of POA No....., against the judgment No. (16534) of 1440 handed down by the Board of Grievances regarding the Tax Appeal Committee's Decision No. (1905) of 1439 AH related to the Zakat assessment for the year 2007 AD in the case filed by the Appellant against ZATCA. The Tax Appeal Committee's Decision ruled that:

First: In from: To accept in from the appeal filed by the General Authority of Zakat and TAX (GAZT) against the Decision No. (5) of 1436 AH of the First Primary Zakat and Tax Objection Committee in Riyadh.

Second: On Merits: To accept the Authority's appeal as to adding to the zakat base assessment of the Tax Payer a third item valuing SAR 162,149,633, and overturn the primary Decision in this respect.

Dissatisfied with the Decision, the Zakat Payer (.....Company) filed an appeal included the following:

The Zakat Payer objects to the Decision arguing that its objection was submitted by a person with a capacity and within the prescribed period, and as such it should be accepted in form. The Zakat Payer also emphaiszed that the Board of Grievances has delivered a judgment that it has no jurisdiction to consider the dispute subject to the case on 11/08/1441 AH. As on merits, the Zakat Payer objects to ZATCA's action to re-assess the Zakat for the year 2007 AD, and accordingly, the Zakat Payer requests that the Decision of the primary department be reversed for the Grounds mentioned above.

On Thursday, 29/06/1443 AH corresponding to 01/02/2022 AD, the Department decided holding a remote litigation session for (10) days. Therefore, ZATCA submitted an answer

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summed up in that it argued that the Case had already been adjudicated in accordance with Article (76) of the Law of Civil Procedures. ZATCA emphasized that, according to legal doctrine and judicial precedent, a case that has been previously decided by a final ruling or Decision cannot be reconsidered unless that ruling is overturned or reviewed by the authority legally entitled to do so. Reconsidering such cases undermines the credibility of judicial Decisions, disrupts legal stability, creates an endless chain of litigation, and weakens the authority of judicial bodies. Furthermore, it causes confusion in enforcement and inconsistency in application. In addition, hearing a case that has already been conclusively resolved contradicts the principle of *res judicata* (the matter judged). Since this Case was previously adjudicated under Primary Department's Decision No. (5) of 1436 AH, which was upheld by Appeal Committee's Decision No. (1905) of 1439 AH and has become final and enforceable, and since Zakat Payer's current request is to amend zakat assessment for 2017, which is the same subject matter as in previously adjudicated case, it indicates that the two Cases has the same parties, subject and reason. Therefore, ZATCA argues that the Case cannot be reconsidered because it has already been decided. In addition, ZATCA reserves the right to submit further responses and elaborations to the competent committees if necessary. In addition, ZATCA contends that Primary Committees to Adjudicate Tax Violations and Disputes do not have jurisdiction over appeals against appellate Decisions issued by Appellate Committee for Tax Violations and Disputes. Zakat Payer's objection included a request to challenge Appellate Decision No. (1905) of 1439 AH rendered in Appeal No. (1730/Z) of 1436 AH by Appellate Committee for Tax Violations and Disputes, placing the matter outside the jurisdiction of Tax Violation and Dispute Committees in accordance with Royal Order No. 26040 issued on 21/04/1441 AH, which states: "Second: ... In addition, the Board of Grievances "BoG" courts should continue reviewing the disputes escalated to them, before issuing this Order, against the rulings issued by the old Appellate Committees with respect to the tax and zakat assessments in accordance with provisions and procedures stipulated in the established procedural laws. For the rulings issued by BoG courts following the Royal Decree No. (M/113) dated 02/11/1438 AH of lack of jurisdiction, the concerned party may submit an appeal before Appellate Committee stated in Royal Decree No. (M/113) dated 02/11/1438 AH within 60 days following the effective date of Tax Dispute and Violation Committee Procedures or the date of final BoG's ruling rendered following the effective date of such Procedures." Thereupon, and in view of the foregoing, ZATCA requests dismissing Case in form.

On Saturday, 01/01/1444 AH corresponding to 30/07/2022 AD, having taken cognizance of memorandums of appeal and responds thereto, and having reviewed Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Zakat Payer's appeal and Documents included in Case file, since the Department found, through Company's statement of appeal, that a ruling was rendered by BoG courts involving that BoG courts do not have jurisdiction over hearing the Case on 08/11/1441 AH; therefore, the appeal is dismissed in form for lapse of time-limit as of the date of BoG ruling stipulated in the Royal Order approving Tax Dispute and Violation Committee Procedures, as Clause (Second) of the Royal Order states: "For the rulings issued by BoG courts following the Royal Decree No. (M/113) dated 02/11/1438 AH of lack of jurisdiction, the concerned party may submit an appeal before Appellate Committee stated in Royal Decree No. (M/113) dated 02/11/1438 AH within 60 days following the effective date of Tax Dispute and Violation Committee Procedures or

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the date of final BoG's ruling rendered following the effective date of such Procedures". Thereupon, it is found that the time-limit for appeal lapsed. Therefore, the Department dismisses the appeal in form on the ground that it was submitted after lapse of the prescribed time-limit.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

Accept appeal in form filed by Zakat Payer (... Company), C.R. No. (...), TIN (...), against BoG Decision No. (16534) of 1440 AH related to Appellate Committee for Tax Violations and Disputes Decision No. (1905) of 1439 AH regarding zakat assessment for 2007.

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

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Keywords
Zakat - Accounts - Non-Notification - Default Decision - Overturning Primary Decision - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Committee's Decision No. (IFR-2020-295) regarding zakat assessment for 1439. Zakat Payer appeals against the Decision for failure to attend the hearing session for a reason attributed to failure of being provided with the link of such session. In addition, the appeal Decision did not give Zakat Payer an opportunity for submitting Documents regarding ZATCA argument. Thereupon, it is found that the Case is not ripe for adjudication in light of Zakat Payer's failure to attend the hearing session before Primary Department. Therefore, the Department overturns Primary Department's Decision and remands the Case.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider appeal filed on 16/05/1442 AH corresponding to 30/12/2020 AD by ..., holder of National ID No. (...), in his capacity as owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-295) rendered in Case No. (Z-8862-2019) related to zakat assessment for 1439 filed by Appellant against ZATCA. Primary Department's decided as follows:
Dismiss objection filed by Plaintiff (... Enterprise), TIN (…) to Defendant's (ZATCA) procedure regarding the estimated zakat assessment subject matter of the Case.
Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:
Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming that the Decision, which dismissed Zakat Payer Case, was rendered *in absentia* due to an alleged failure to submit the contracts in question. Zakat Payer asserts that this claim is incorrect, as Zakat Payer communicated with the Secretariat due to the large size of contracts, and was instructed to send the Documents via e-mail. The contracts were sent in three batches, and Zakat Payer received confirmation of receipt, copies of which have been attached. Therefore, Zakat Payer requests overturning Primary Department's Decision for the aforementioned reasons.
Since the Department decided opening of pleadings, ZATCA submitted an answer dated 06/07/1442 AH corresponding to 17/02/2021 AD wherein replies to Zakat Payer's appeal. The answer is summed up in that ZATCA reiterates its previous position submitted before Primary Department. Moreover, Zakat Payer did not provide ZATCA with the proper contracts for all years, as Zakat Payer did not provide such contracts within examination

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and objection stage, and did not submit them to the department that rendered the appealed Decision, which indicates Zakat Payer's failure to prove validity of its claim. In addition, ZATCA, when issuing its Decision, relied on statements and Documents submitted in accordance with Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat and Paragraph (3) and Article (22) of the same Regulations. Furthermore, ZATCA requests the Department to dismiss any new petitions submitted by Zakat Payer that were not submitted within examination and objection stage. Therefore, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On Tuesday, 29/06/1443 AH corresponding to 01/02/2022 AD, the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On Thursday, 25/10/1443 AH corresponding to 26/05/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Since Zakat Payer's appeal involves the argument that Zakat Payer was unable to attend the hearing session before Primary Department for a reason attributed to failure of being provided with the link of such session. On the other hand, ZATCA requested dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of dispute, Primary Department's Decision, the Department found that Zakat Payer did not attend the hearing session. Since Zakat Payer claimed that it was not notified of the hearing session date. Since the appealed Decision does not indicate that Zakat Payer was given an opportunity to submit its Documents regarding ZATCA argument, it turns out that the Case is not ripe for adjudication due to Zakat Payer's failure to attend the hearing session and lack of a written objection to reply to ZATCA arguments raised before Primary Department. Thereupon, the Department overturns Primary Department's Decision and remands the Case for reconsideration after verifying that Zakat Payer was properly and adequately served.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (IFR-2020-295) rendered in Case No. (Z-8862-2019) regarding tax assessment for 1439.

Second: On Merits: Overturn Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration according to Grounds and reasons stated herein.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes in Riyadh

Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH

Decision No. IR-2022-213
Case No. Z-29269-2020

Keywords
ZATCA - Accounts - Registering Objection within Time-Limit - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IZD-2020-191) regarding zakat assessment for 1439. Zakat Payer's appeal involves objection to Primary Department's Decision dismissing its Case in form, claiming that the appeal was filed by a party having capacity and within the prescribed time-limit. Since the Committee found that Zakat Payer submitted its Case before Primary Department on 15/06/1441 AH corresponding to 09/02/2020, i.e. within the time-limit stipulated by ZATCA assessment Decision, which is (60) days from Decision rendering date. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal filed on ../../... corresponding to .. /.. /... by ..., holder of National ID No. (...), in his capacity as owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-191) rendered in Case No. (Z-5371-2020) related to tax assessment for 1439 filed by Appellant against ZATCA. Primary Department decided as follows:

Dismiss the Case in form filed by Plaintiff (... Enterprise), C.R. No. (...), due to lapse of the prescribed time-limit.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming that the objection was escalated to the General Secretariat of Tax Dispute and Violation Committees in Dammam based on ZATCA Decision letter dismissing its objection filed regarding Zakat Payer's objection to ZATCA assessment for 1439 No. (...) dated 02/04/1441 AH that includes the paragraph of escalating objection within (60) days from the date issuing adjusted invoice. Accordingly, Zakat Payer requests overturning Primary Department's Decision for the aforementioned reasons.

On Monday, 22/10/1443 AH corresponding to 23/05/2022 AD, the Department decided holding remote litigation session for (10) days. Therefore, ZATCA submitted an answer wherein replies to Zakat Payer's appeal. The answer is summed up in that: ZATCA reaffirms the correctness of its position presented before Primary Department. It

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emphasizes that the plea regarding form addresses the litigation procedures, not the substance of right in question. Since the violation of procedural rules results in inadmissibility of Case's subject matter, ZATCA insists on following the statutory procedures that maintain public interests in accordance with Article (2) and Article (3) of Tax Dispute and Violation Committee Procedures, Article (22) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH and Article (25) of the Implementing Regulations for the Collection of Zakat issued in 1440 AH. In addition, ZATCA requests that this Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedures. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding ZATCA procedures for the aforementioned reasons.

On Thursday, 01/11/1443 AH corresponding to 09/06/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Having taken cognizance of Case file, since Zakat Payer's appeal involves there is no ground for dismissing Taxpayer's Case in form by Primary Department, as Zakat Payer claims that the appeal was filed by a party having capacity and within the prescribed time-limit. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute, Documents included in Case file and Grounds for Decision subject matter of the dispute, the Department found that Zakat Payer was informed of assessment Decision on 02/04/1441 AH corresponding to 17/12/2019 AD, and submitted its objection in this regard on 15/06/1441 AH corresponding to 09/02/2020 AD, which does not align with the Documents included in Case file, as the date of 20/04/1441 AH corresponding to 17/12/2019 AD is the date in which ZATCA rejected Zakat Payer's objection. Since Zakat Payer filed its Case before Primary Department on 15/06/1441 AH corresponding to 09/02/2020, i.e. within the time-limit stipulated by ZATCA assessment Decision, which is (60) days from Decision rendering date. Therefore, this Department concludes that Zakat Payer filed its objection within the prescribed time-limit. This is not affected by ZATCA argument regarding invalidity of accepting Zakat Payer's grievance on the Grounds that it was submitted thirty (30) days after the statutory period from the date of being notified of objection result. This is because such rules were not the ones applicable to Zakat Payer when ZATCA issued its Decision rejecting Zakat Payer's objection. Therefore, this Department accepts Zakat Payer's appeal, overturns Primary Department's Decision and remands the Case reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes

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in Dammam Decision No (IZD-2020-191) rendered in Case No. (Z-5371-2020) regarding tax assessment for 1439.

Second: On Merits:

Accept Zakat Payer's appeal, overturn Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.

(This judgment has become final due to the expiration of the period set for challenging the same as per Article 40 of the was obtained after the expiry of the objection period based on Article (40) of the Tax Dispute and Violation Committee Procedures)

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-214
Case No. Z-29551-2020

Keywords
Zakat - Accounts - Assessment after Lapse of Statutory Period - Accepting Zakat Payer's Appeal - Overturning Primary Department's Decision

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IFR-2020-96) regarding zakat assessment for 2012. Zakat Payer's appeal involves objection to upholding of ZATCA procedure by Primary Department outlined in calculating zakat according the elements that are in favor of ZATCA and disregarding elements that are in favor of Zakat Payer. Since the Department concluded that ZATCA assessment was after lapse of the statutory period for making amendment to Zakat Payer's declaration of five years from the deadline for filing Zakat Payer's zakat declaration for each year. Therefore, the Department accepts the appeal and overturns Primary Department's Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal filed on .. /.. /... corresponding to ../.. /..., by ..., holder of National ID No. (...) on behalf of Appellant Company under POA No. (...), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-96) rendered in Case No. (Z-6881-2019) related to zakat assessment for 2012 in Case filed by Appellant against ZATCA. Primary Department's Decision states:
Dismiss objection filed by Plaintiff (... Company), TIN (…) to Defendant's (ZATCA) Decision regarding zakat assessment subject matter of the Case for 2012.
Since Zakat Payer (… Company) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:
Zakat Payer objects to Primary Department's Decision subject matter of appeal, stating that the zakat should be calculated according to the financial statements issued by... Office and in accordance with the Implementing Regulations for the Collection of Zakat issued by Minister of Finance Resolution No. (2082) dated 01/06/1438H. In addition, Zakat Payer emphasizes that the Company acknowledged in minutes of field audit that there are no regular Documents and books due to a fire at Company's factory (Kindly see the statement of the General Directorate of Civil Defense). The Company retrieved data from electronic devices through specialists and submitted the same to ZATCA audit officer. Moreover, Zakat Payer claims that ZATCA calculated zakat based on elements that are in favor of ZATCA, while disregarding those in favor of Zakat Payer is contrary to Sharia and

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the Implementing Regulations for the Collection of Zakat. It is just and fair to deduct the elements that are in favor of Zakat Payer, especially since the financial data originates from the same financial statements used by ZATCA. Moreover, Zakat Payer requests recalculation of zakat according to all elements stated in the financial statements relied upon by ZATCA and in accordance with the Implementing Regulations for the Collection of Zakat, with a willingness to provide all necessary Documents. Therefore, Zakat Payer request overturning Primary Department's Decision subject matter of appeal for the aforementioned reasons.

On Monday, 22/10/1443 AH corresponding to 23/05/2022 AD, the Department decided holding a remote litigation session for (10) days. Therefore, ZATCA submitted an answer wherein replies to Zakat Payer's appeal. The answer is summed up in that ZATCA reiterates its previous position submitted before Primary Department. During field audit stage, Zakat Payer stated that there is no accounting system for years from 2010 to 2015. Therefore, ZATCA found through its available data that financial statements for years from 2010 to 2015, which differ from those provided to ZATCA during the field audit stage, were issued by ... Office that revealed significant discrepancies in the values of Company's assets, liabilities, and operating results compared to the statements submitted during the field audit. The concluding paragraph of the reasoned notification of field audit results indicated that ZATCA had verified Company's responsibility for issuing those statements. As a result, ZATCA believes that the zakat dues should be calculated based on these differing financial statements submitted by Zakat Payer to ZATCA. In addition, having reviewed Note No. (21) of the financial statements for 2015 reissued by ... Office, it turns out that the comparative year (the opening balance for 2015, i.e. 2014 balances) was adjusted due to derecognizing an activity unrelated to the Company. Since the Department found that the financial statements for the years in question were inaccurate, and because the presence of multiple financial statements naturally results in a lack of confidence and reliance on the mentioned statements. Since it is unclear which statements are correct, ZATCA procedure of assessing Zakat Payer using the estimated method based on data available to it is deemed valid in accordance with provisions of Article (13.8) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. If this Department decides to base the assessment on the financial statements, ZATCA requests that the Decision include a provision indicating that ZATCA made assessment based on the financial statements, without conflicting with the principle of prescription. In addition, ZATCA requests the Department not to accept any new Documents that were not submitted during the examination and objection stages, and dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedures. Therefore, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons. On Thursday, 10/11/1443 AH corresponding to 09/06/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

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On Merits: Zakat Payer's appeal involves objecting to Primary Department's upholding of ZATCA procedure outlined in calculating zakat according to elements that are in favor of ZATCA and disregarding elements that are in favor of Zakat Payer. On the other hand, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of dispute and Documents included in Case file, the Department found that ZATCA assessment was made after the expiry of statutory period for making amendments to Zakat Payer's declaration, which is five years from the deadline for filing Zakat Payer's declaration for each year. It is worth noting that these rules are established to maintain transaction stability and prevent instability of Zakat Payer's financial positions in case of absence of a timeframe that ensures maintaining their financial positions. Since this matter does not result in releasing Zakat Payer from the legal obligation if Zakat Payer is already concerned with fulfilling such obligation, but rather outlines a procedural issue with relation to ZATCA right to reopen assessments after the expiry of statutory period. Therefore, the Department concluded that ZATCA procedure for making amendments was invalid. Thereupon, the Department accepts Zakat Payer's appeal and overturns Primary Department's Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (IFR-2020-96) rendered in Case No. (Z-6881-2019) regarding tax assessment for 2012.

Second: On Merits: Accept Zakat Payer's appeal and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh according to reasons and Grounds stated herein.

(This judgment has become final due to the expiration of the period set for challenging the same as per Article 40 of the was obtained after the expiry of the objection period based on Article (40) of the Tax Dispute and Violation Committee Procedures)

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-221
Case No. Z-28200-2020

Keywords
Zakat - Accounts - Filing Objection within Time-Limit - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IZD-2020-164) regarding zakat assessment for years from 2008 to 2014. Zakat Payer's appeal involves objection to Primary Department's Decision that dismissed its Case in form, claiming that the appeal was filed by a party having capacity and within the prescribed time-limit. It turns out that zakat assessment Decision for all years in question was on 13/04/1439 AH corresponding to 31/12/2017 AD. In addition, Zakat Payer filed its objection to ZATCA Decision electronically on 13/06/1439 AH corresponding to 28/02/2018 AD according to the Documents submitted by Zakat Payer and the letter dated 13/06/1439 AH corresponding to 28/02/2018 AD. Therefore, the Department accepts the appeal and remands the Case.

Facts

To consider the appeal filed on ../../... /... corresponding to .. /.. /..., by ..., holder of National ID No. (...) on behalf of Appellant Company under POA No. (...), against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-164) rendered in Case No. (Z-9853-2019) related to zakat assessment for years from 2008 to 2014 in Case filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case in form filed by Plaintiff (... Company), C.R. No. (...).

Since Zakat Payer (... Company) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming that ZATCA made Company's zakat assessment for years from 2008 to 2014. On 31/12/2017 AD, ZATCA sent amendment letters for years from 2010 to 2014 without mentioning therein Company's right to objection and time-limit for objection. Therefore, the Company filed an objection via

ZATCA website on 28/02/2018 AD according to screenshots attached to Case file. Thereupon, the Company filed the objection to ZATCA on 11/03/2019 AD. Accordingly, ZATCA accepted and filed the objection, while paying the amount of uncontested items. During the discussion, Zakat Payer was informed that ZATCA accepted a number of uncontested items that outline (89%) of the filed objection. Thereupon, Zakat Payer

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requests overturning Primary Department's Decision subject matter of appeal for the aforementioned reasons.

On Monday, 22/10/1443 AH corresponding to 23/05/2022 AD, the Department decided holding remote litigation session for (10) days. Therefore, ZATCA submitted an answer wherein replies to Zakat Payer's appeal, by reiterating its previous position presented before Primary Department. In addition, Zakat Payer did not file an objection within the time-limit in accordance with Paragraph (1) of Article (22) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. Furthermore, ZATCA requests the Department not to accept any new petitions by Zakat Payer in accordance with Article (186) of the Law of Civil Procedures. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On Tuesday, 15/11/1443 AH corresponding to 14/06/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Since Zakat Payer's appeal involves there is no ground for dismissing Zakat Payer's Case in form by Primary Department, as Zakat Payer claims that the appeal was filed by a party having capacity and within the prescribed time-limit. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of dispute and Documents included in Case file, it turns out that zakat assessment Decision for all years was on 13/04/1439 AH corresponding to 31/12/2017 AD. In addition, Zakat Payer filed its objection to ZATCA Decision electronically on 13/06/1439 AH corresponding to 28/02/2018 AD according to the Documents submitted by Zakat Payer and the letter dated 13/06/1439 AH corresponding to 28/02/2018 AD. Thereupon, it turns out that Zakat Payer filed its objection within the prescribed time-limit. Therefore, this Department overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remands the Case for reconsideration on its merits.

Decision

First: Accept the appeal in form filed by Zakat Payer (... Company), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No (IZD-2020-164) rendered in Case No. (Z-9853-2019) regarding tax assessment for years from 2008 to 2014.

Second: On Merits:

Accept Zakat Payer's appeal, overturn Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.

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Keywords
ZATCA - Accounts - ZATCA Assessment doesn't Meet Formal Requirements - Overturning Primary Department's Decision - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IZD-2020-255) regarding zakat assessment for 2016. Zakat Payer's appeal involves objection to dismissing its Case in form by Primary Department. Having taken cognizance of ZATCA assessment letter, the Department found that ZATCA assessment is marred by a defect in form. Therefore, the Department overturns Primary Department's Decision.

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

To consider the appeal filed on .. /../... AH corresponding to ../../... AD by ..., holder of National ID No. (...), in his capacity the legal representative of Appellant Company under the memorandum of association, against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-255) rendered in Case No. (Z-2943-2020) regarding tax assessment for 2016 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case in form due to lapse of the prescribed time-limit for objection.

Since Zakat Payer (... Company) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming that the assessment was made by ZATCA as electronically issued on 27/01/1439 AH corresponding to 17/10/2017 AD. Then, Zakat Payer made several attempts to submit the objection electronically, but failed due to a malfunction in ZATCA online system at the time. After further attempts, the objection was finally submitted on 24/06/1439 AH with Ref. No. (...). Later, ZATCA Branch in Hafar Al-Batin sent an acknowledgment of receipt of the objection on 22/01/1440 AH with Objection Case No. (...) in response to the letter sent to ZATCA on 20/06/1439 AH corresponding to 08/03/2018, which was submitted as a hard copy rather than a soft copy. Thereupon, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal for the aforementioned reasons.

On Wednesday, 07/03/1443 AH corresponding to 13/10/2021 AD, the Department decided holding remote litigation session for (10) days. Therefore, ZATCA submitted an answer wherein replies to Zakat Payer's appeal, by reiterating its previous position presented before Primary Department. In addition, Zakat Payer did not file an objection

within the time-limit in accordance Article (22) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. Furthermore, ZATCA requests the Department not to accept any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedures. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On Sunday, 27/11/1443 AH corresponding to 26/06/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Since Zakat Payer's appeal involves there is no ground for dismissing Zakat Payer's Case in form by Primary Department, as Zakat Payer claims that the appeal was filed by a party having capacity and within the prescribed time-limit. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of appeal, Zakat Payer's appeal for 2016, Documents included in Case file and ZATCA assessment letter, the Department found that the assessment did not meet the formal elements stipulated by the law, as such assessment did not include reasons for amendment whereby Zakat Payer can file a reasoned objection, since ZATCA should state the reasons for amendment so that Zakat Payer can accept or object to ZATCA amendment. Since the matter was no as stated; therefore, this Department concludes that ZATCA assessment is marred by a defect in form. This is not affected by the provisions set by legislator, which make ZATCA assessment Decision unappealable by lapse of statutory period for objection, as this matter is established when the Decision is valid and meets formal requirements stipulated by the law. Therefore, this Department overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remands the Case for reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer (... Company), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No (IZD-2020-255) rendered in Case No. (Z-2943-2020) regarding tax assessment for 2016.

Second: On Merits: Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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Decision No. IR-2022-271
Appeal No. Z-26049-2020

Keywords
Zakat - Accounts - ZATCA Assessment after Lapse of Statutory Period - Accepting Zakat Payer's Appeal

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IFR-2020-62) regarding zakat assessment for years from 1998 to 2011. Zakat Payer's appeal involves objection to items subject matter of the Case. The Department found that ZATCA assessment was made after lapse of statutory period for amendments to Zakat Payer's declaration of five years from the deadline for filing Zakat Payer's declaration for each year. Therefore, the Department accepts the appeal regarding items in question and overturns Primary Department's Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

To consider the appeal filed on .. /../... corresponding to .. /../.... filed by (...), holder of National ID No. (...), in his capacity the legal representative of Appellant Company under the memorandum of association, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-62) rendered in Case No. (Z-4297-2019) regarding tax assessment for years from 1998 to 2011 filed by Appellant against ZATCA. Primary Department's Decision states:

First: Amend Defendant (ZATCA) Decision regarding import variances for Plaintiff (... Company), TIN..... for 2008 and 2009 subject matter of the Case as stated in Grounds.

Second: Establish waiver of Plaintiff (... Company), TIN..... of its objection to Defendant (ZATCA) Decision regarding import variances for 2010 and 2011 subject matter of the Case.

Third: Establish waiver of Plaintiff (... Company), TIN..... of its objection to Defendant (ZATCA) Decision regarding (Bad Debts) item subject matter of the Case.

Fourth: Establish waiver of Plaintiff (... Company), TIN..... of its objection to Defendant (ZATCA) Decision regarding (Contracts) item subject matter of the Case.

Fifth: Amend Defendant (ZATCA) Decision regarding (Trade Creditors) item for Plaintiff (...Company), TIN..... for years from 2008 to 2011 subject matter of the Case.

Sixth: Dismiss objection filed by Plaintiff (... Company), TIN..... to Defendant (ZATCA) Decision regarding (Related Party Creditors) item for 2008, 2010 and 2011 subject matter of the Case.

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Seventh: Dismiss objection filed by Plaintiff (... Company), TIN..... to Defendant (ZATCA) Decision regarding (Miscellaneous Creditors) item for years from 2008 to 2011 subject matter of the Case.
Eighth: Dismiss objection filed by Plaintiff (... Company), TIN..... to Defendant (ZATCA) Decision regarding (Accrued Expenses) item for 2008 subject matter of the Case, and amend Defendant (ZATCA) Decision regarding (Accrued Expenses) item for Plaintiff (... Company), TIN..... for years from 2009 to 2011 subject matter of the Case as stated in Grounds.
Ninth: Dismiss objection filed by Plaintiff (... Company), TIN..... to Defendant (ZATCA) Decision regarding (Retained Earnings and Dividends) item for 2009 and 2010 subject matter of the Case.
Tenth: Overturn Defendant (ZATCA) Decision regarding (Fixed Assets) item for Plaintiff (...Company), TIN..... for years from 2008 to 2011 subject matter of the Case.
Eleventh: Dismiss objection filed by Plaintiff (... Company), TIN..... to Defendant (ZATCA) Decision regarding (Carried Forward Losses for 2008) item subject matter of the Case.
Twelfth: Dismiss objection filed by Plaintiff (... Company), TIN..... to Defendant (ZATCA) Decision regarding (Creditor Banks for 2008 and 2011) item subject matter of the Case.
Thirteenth: Dismiss objection filed by Plaintiff (... Company), TIN..... to Defendant (ZATCA) Decision regarding zakat assessments for years from 1997 to 2007 subject matter of the Case.
Fourteenth: Dismiss objection filed by Plaintiff (... Company), TIN..... to Defendant (ZATCA) Decision regarding (Inventory for 2010) item subject matter of the Case.
Since Zakat Payer (Company…) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:
Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming that regarding (Import Variance for 2008 and 2009) item, what was included in zakat declaration was actually material purchases. The purchases in declaration appear larger than purchases according to customs statement because a part of the local purchases was included with the imported purchases under the local category. Regarding (Related Party Creditors for 2008 and 2011) item, Zakat Payer claims that the opening balance did not complete a full year as it was fully paid, and that the debit transactions cover credit balances. Regarding (Creditors for years from 2008 to 2011) item, Zakat Payer claims that this item consists of employee advances and short-term credit balances. In addition, Zakat Payer emphasizes that the opening balance did not complete a full year, as it was fully paid, and that the debit transactions cover credit balances. Regarding (Accrued Expenses for years from 2008 to 2011) item, Zakat Payer claims that the opening balance did not complete a full year, as it was paid at the beginning of the new year, in addition to paying a part of credit movement during the year. Regarding (Retained Earnings for 2009 and 2010) item, Zakat Payer claims that there were distributed profits that were actually withdrawn by shareholders. Regarding (Creditor Banks for 2008 and 2011) item, Zakat Payer claims that the opening balance did not complete a full year, as it was fully paid, in addition to paying a part of credit movement during the year. Regarding (Zakat Assessments for years from 1997 to 2007) item, Zakat Payer claims submitting its declarations regularly based on audited systematic accounts, and that more than ten years have passed for years from 1997 to 2007. Accordingly, these years fall under the statute of limitations. Therefore, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal for the aforementioned reasons.
On Sunday, 21/10/1443 AH corresponding to 22/05/2022 AD, the Department decided holding remote litigation session for (10) days. Therefore, ZATCA submitted an answer

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wherein replies to Zakat Payer's appeal, by reiterating its previous position presented before Primary Department. Regarding (Statute of Limitations on Zakat Assessment for years from 1997 to 2007) item, ZATCA indicated that this matter had already been resolved by First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-130). Accordingly, Plaintiff's objection may not be reconsidered regarding this item in accordance with Article (76) of the Law of Civil Procedure. Regarding (Import Variance for years from 2008 to 2011) item, ZATCA stated that a comparison was made between the external purchases according to Plaintiff's declaration and external purchases recorded by ZATCA. The variance was addressed based on ZATCA Circular No. (2030/9) dated 15/04/1430 AH, which was applied for 2010. As for the remaining years (2008, 2009 and 2011), the declarations were higher than data received from customs, and the second part of the aforementioned circular was applied. Regarding (Creditor Banks for 2008 and 2011) item, (Related Party Creditors for 2008 and 2011) item, (Miscellaneous Creditors for years from 2008 to 2011) item, and (Accrued Expenses for years from 2008 to 2011) item, ZATCA added the balances of these items at either the beginning or end of the period, whichever is lower, according to the financial statements and notes thereto due to Plaintiff's failure to provide the detailed movement of these items to determine the balances that completed a full year. In addition, ZATCA based its procedure on Paragraph (5) of Clause (First) of Article (4) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. Regarding (Retained Earnings and Dividends for 2009 and 2010) item, Paragraphs (8) and (11) of Clause (First) of Article (4) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH state: "Zakat base shall consist of all taxpayer's funds subject to Zakat, including: 8. Balance of profits carried forward from previous years at the year-end. 11. Profits pending distribution, except for profits declared for distribution where the shareholders have not claimed them, provided that these profits are deposited in a separate account that the company is not permitted to use." In addition, Paragraph (3) of Article (20) of the same regulations states: "The burden of proving validity of the items mentioned in taxpayer's zakat declaration and any other data shall fall on the taxpayer. In the event that the taxpayer is unable to prove validity of the items mentioned in his declaration, ZATCA may not approve the item whose validity is not proven by the taxpayer or make an estimated assessment according to its discretion in light of the circumstances and Facts related to the case and the information available thereto". Since Zakat Payer did not provide supporting Documents to validate their claim that the item had not completed a full year, ZATCA approach is deemed valid. In addition, ZATCA requests the Department to dismiss any new Documents and to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On Wednesday 05/01/1444 AH corresponding to 03/08/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit. On Merits: Regarding Zakat Payer's appeal against

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Primary Department's Decision, Zakat Payer's appeal involves objection to Primary Department's Decision regarding items subject matter of the Case. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Since the Department concluded that ZATCA assessment was after lapse of the statutory period for making amendments to Zakat Payer's declaration of five years from the deadline for filing Zakat Payer's declaration for each year. Since these rules are established to maintain transaction stability and prevent instability of Zakat Payers' financial positions in case of absence of a timeframe that ensures maintaining their financial positions. Since this matter does not result in releasing Zakat Payer from the legal obligation if Zakat Payer is already concerned with fulfilling such obligation, but rather outlines a procedural issue with relation to ZATCA right to reopen assessments after the expiry of statutory period. Therefore, the Department concluded that ZATCA procedure for making amendments was invalid. Thereupon, the Department cancels ZATCA assessment of Zakat Payer for years in question and overturns Primary Department's Decision.

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

Decision

First: Accept appeal in form filed by Zakat Payer (... Company), C.R. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-62) rendered in Case No. (Z-4297-2019) regarding zakat assessment for years from 1998 to 2011.

Second: On Merits:

Accept appeal filed by Zakat Payer regarding items subject matter of the Case, overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and cancel ZATCA assessment for years in question according to reasons and Grounds stated herein.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-368
Case No. Z-12981-2020

Keywords

ZATCA– Accounts– ZATCA Assessment doesn't Meet Formal Requirements– Overturning Primary Department's Decision - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (27) regarding zakat assessment for years from 2011 to 2014. Since Zakat Payer's appeal involves the claim that the statutory periods start as of assessment receipt date, rather than assessment issuance date. Since the Department found that ZATCA assessment is marred by a defect in form. This is not affected by the provisions set by legislator, which make ZATCA assessment Decision unappealable by lapse of statutory period for objection. Therefore, the Department overturns the Decision rendered by Primary Committee for Zakat and Tax Objections and remands the Case for reconsideration on merits.

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

To consider the appeal filed on .. /../... corresponding to .. /../... filed by ..., holder of National ID No. (...), on behalf of Appellant Company under POA No. (...), against Second Primary Committee for Zakat and Tax Objections in Riyadh Decision No. (27) of 1438 AH rendered in Objection No. (...) regarding zakat assessment for years from 2011 to 2014 filed by Appellant against ZATCA. Primary Committee's Decision states:

Dismiss Zakat Payer's Case in form.

Since Zakat Payer (... Company) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Committee's Decision subject matter of appeal, claiming that the statutory periods start as of receiving assessment letter, rather than invoice issuance date. Therefore, Zakat Payer requests considering its Case on merits, rather than considering only formal aspect. Thereupon, Zakat Payer requests overturning Committee's Decision subject matter of appeal for the aforementioned reasons.

On Sunday, 21/10/1443 AH corresponding to 22/05/2022 AD, the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On Sunday, 22/02/1444 AH corresponding to 18/09/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its

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merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Since Zakat Payer's appeal involves the claim that the statutory periods start as of assessment receipt date, rather than assessment issuance date. Having taken cognizance of subject matter of the dispute, Documents included in Case file and ZATCA assessment Decisions for years from 2011 to 2014, the Department found that assessment Decisions did not meet the formal elements stipulated by the law, as such assessment Decisions did not include reasons for amendment whereby Zakat Payer can file a reasoned objection, since ZATCA should state the reasons for amendment so that Zakat Payer can accept or object to ZATCA amendment. Since the matter was no as stated, and that reasoning is one of Zakat Payer's rights; therefore, this Department concludes that ZATCA assessment is marred by a defect in form. This is not affected by the provisions set by legislator, which make ZATCA assessment Decision unappealable by lapse of statutory period for objection, as this matter is established when the Decision is valid and meets formal requirements stipulated by the law. Therefore, this Department overturns the Decision rendered by the Second Primary Committee for Zakat and Tax in Riyadh and refers the Case to the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Company, C.R. No. (...), TIN (...), against Second Primary Committee for Zakat and Tax Objections in Riyadh Decision No. (27) of 1438 AH rendered in Objection No. (38/17) regarding zakat assessment for years from 2011 to 2014.

Second: On Merits:

Overturn the Decision rendered by the Second Primary Committee for Zakat and Tax Objections in Riyadh and refer the Case to the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for reconsideration on merits according to reasons and Grounds stated herein.

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Keywords

Zakat - Estimated - Canceling Commercial Register - Lapse of Statutory Period for Amendments - Overturning Primary Department's Decision

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IFR-2020-167) regarding estimated zakat assessment for years from 1429 to 1440. Having taken cognizance of Zakat Payer's appeal and Documents included in Case file, the Department found that Zakat Payer's appeal involves its failure to exercise business activity throughout the years from 1439 to 1434 subject matter of the Case. Since the Department concluded that ZATCA assessment was made after expiry of statutory period for making amendment to Zakat Payer's declaration of five years from the deadline for filing Zakat Payer's declaration for each year. Therefore, the Department accepts the appeal and overturns Primary Department's Decision

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider appeal filed on ../../… corresponding to ../../... by (...), holder of National ID No. (...), in his capacity as the former owner of (...) Enterprise, C.R. No. (...) that was cancelled under cancellation certificate issued from the Ministry of Commerce, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-167) rendered in Case No. (Z-3128-2020) regarding estimated zakat assessment for years from 1429 to 1440 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss objection filed by Plaintiff (...), TIN (...), to Defendant (ZATCA) Decisions regarding zakat assessment for years from 1439 to 1440 and resolution of dispute as to Plaintiff's objection to zakat assessment for 1439 due to lack of a claim by Defendant against Plaintiff for any due amounts for 1439.

Dissatisfied with this Decision, Zakat Payer (...) submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming that Zakat Payer no longer have any business activity, as its commercial registration was cancelled. In addition, Zakat Payer asserts that he does not have a work visa or a municipal license and that he ceased import activity in 1433. Furthermore, Zakat Payer states that he is eligible for Citizen Account support and has not obtained a commercial loan. Zakat Payer also stated that he was studying abroad during the years in question. In addition,

Zakat Payer claims that the amounts for years from 1434 to 1440 are incorrect, as they were automatically recorded and that the enterprise was cancelled in 1440 AH, and did not complete (90) days, meaning it did not complete a full year. Zakat Payer emphasizes that the actual business activity ended in 1433 AH. Thereupon, Zakat Payer requests overturning Primary Department's Decision for the aforementioned reasons.

Since the Department decided opening of pleadings, ZATCA submitted an answer dated ../ /.. /.. corresponding to .. /../... wherein replies to Zakat Payer's appeal, by reiterating its previous position presented before Primary Department. In addition, ZATCA argues that Primary Department's Decisions was rendered in line with provisions of the Law and in accordance with Article (7) of Electronic Registration Law, as Zakat Payer only cancelled its register on 22/02/1440 AH. Therefore, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On Tuesday, 29/06/1443 AH corresponding to 01/02/2022 AD, the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On Thursday, 16/07/1443 AH corresponding to 17/02/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Having taken cognizance of Zakat Payer's appeal and Documents included in Case file, the Department found that Zakat Payer's appeal involves failure to exercise business activity throughout years of zakat assessment subject matter of the Case. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Regarding Zakat Payer's appeal for years from 1429 to 1434, the Department found that ZATCA assessment was made after expiry of statutory period for making amendments to Zakat Payer's declaration, which is five years from the deadline for filing Zakat Payer's declaration for each year. It is worth noting that these rules are established to maintain transaction stability and prevent instability of Zakat Payers' financial positions in case of lack of a timeframe that ensures maintaining their financial positions. Since this matter does not result in releasing Zakat Payer from the legal obligation if Zakat Payer is already concerned with fulfilling such obligation, but rather outlines a procedural issue with relation to ZATCA right to reopen assessments after expiry of statutory period. Therefore, the Department concluded that ZATCA procedure for making amendments for years from 1439 to 1434 was invalid. Thereupon, the Department accepts Zakat Payer's appeal and overturns Primary Department's Decision.

As for Zakat Payer's appeal for years from 1435 to 1440 (except for 1439, for which the dispute was resolved in favor of Zakat Payer due to lack of amounts according to ZATCA assessment), having taken cognizance of the entire Case file, Facts and supporting Documents included in Case file related Zakat Payer's activities and their zakatable situation, it turns out that the estimated assessment claimed by ZATCA does not fairly reflect the true nature of Zakat Payer's activity, considering the circumstances and Facts surrounding Zakat Payer's situation. Zakat Payer submitted evidence indicating that its activity ceased after 1433 AH, including proof of his scholarship and commercial

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registration cancellation certificate, with the cancellation date specified as on 22/02/1440 AH. In addition, ZATCA did not provide evidence contradicting Zakat Payer's claim of ceasing activity after 1433 AH, nor did it provide material Facts justifying adjustment of Zakat Payer's declarations and the conclusions reached. Since this Department did not find any zakatable assets for years in question. Thereupon, this Department concludes that Zakat Payer's situation is valid and correct. Therefore, this Department accepts Zakat Payer's appeal for years from 1435 to 1440 (except for 1439 AH, for which the dispute was resolved by accepting Zakat Payer's objection due to lack of amounts according to ZATCA assessment) and overturns Primary Department's Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (...), holder of National ID No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-167) rendered in Case No. (Z-3128-2020) regarding estimated tax assessment for years from 1429 to 1440.

Second: On Merits: Accept Zakat Payer's appeal and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh according to reasons and Grounds stated herein.

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

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Keywords
Zakat - Accounts - Murabaha Credits - Accounts Payable - Import Variance - ZATCA Assessment after Statutory Period

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IZJ-2020-171) regarding zakat assessment for 2012. Since Zakat Payer's appeal involves objection to Primary Department's Decision that upholds ZATCA amendment to Zakat Payer's declaration for 2012. Since ZATCA assessment was made after expiry of statutory period according to instructions for zakat collection estimated in five years. Therefore, the Department accepts Zakat Payer's appeal and overturns Primary Department's Decision.

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider appeal filed on ../../.. corresponding to ../../... by ..., holder of National ID No. (...), in his capacity as owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-171) rendered in Case No. (Z-7713-2019) regarding tax assessment for 2012 filed by Appellant against ZATCA. Primary Department's Decision states:

First: In form:

Accept the Case in form filed by Plaintiff (... Enterprise), C.R. No. (...).

Second: On Merits:

1. Accept objection filed by Plaintiff (... Enterprise) regarding (Withdrawn Profits) item amounting to SAR 1,656,868 for 2012 according to Grounds of the Decision.
2. Dismiss objection filed by Plaintiff (... Enterprise) regarding (Import Variance) item amounting to SAR 80,634 according to Grounds of the Decision.
3. Dismiss objection filed by Plaintiff (... Enterprise) regarding Murabaha credits and collections amounting to SAR 3,694,765 according to Grounds of the Decision.
4. Dismiss objection filed by Plaintiff (... Enterprise) regarding (Trade Suppliers) item amounting to SAR 178,645 according to Grounds of the Decision.

Dissatisfied with this Decision, Zakat Payer (… Enterprise) submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision, claiming that with regard to (Murabaha Credits) item, Zakat Payer provided a statement detailing loan movement during the period and a bank certificate confirming that there are no loans that completed a full year. Regarding (Accounts Payable) item, Zakat Payer claims attaching supplier

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account statements that show invoice issuance dates and due dates, indicating that there are no outstanding debts for previous years. Thereupon, Zakat Payer requests overturning Primary Department's Decision for the aforementioned reasons.

Since the Department decided opening of pleadings, ZATCA submitted an answer dated 01/03/1443 AH corresponding to 07/10/2021 AD wherein replies to Zakat Payer's appeal, claiming that regarding (Import Variance), ZATCA insists on Primary Department's Decision that upholds ZATCA procedure related to non-deduction of unsupported expenses in accordance with Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat. Regarding (Murabaha Credits and Collections) item, ZATCA accepted part of this item as reflected in Primary Department's Decision after Zakat Payer had provided an account statement showing payment of the remaining amount. Regarding (Trade Suppliers) item, Zakat Payer did not submit the necessary supporting Documents, which would have included a statement detailing the opening balance, transactions throughout the year and the closing balance in accordance with Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat. Therefore, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On Tuesday, 29/06/1443 AH corresponding to 01/02/2022 AD, the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On Monday, 20/07/1443 AH corresponding to 21/02/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Regarding Zakat Payer's appeal against Primary Department's Decision that upholds ZATCA amendment to Zakat Payer's declaration for 2012, since ZATCA assessment for Zakat Payer was after expiry of statutory period stipulated by instructions for zakat collection estimated in five years. Since it is established that ZATCA only issued the final assessment on 14/08/1439 AH corresponding to 29/04/2018 AD. Since the instructions for zakat collection were based on determining period of five years from the deadline for filing zakat declaration for each year. Since this period is established to ensure transaction stability and prevent instability of Zakat Payers' financial positions in case of lack of a timeframe that ensures maintaining their financial positions. Thereupon, the Department upholds Zakat Payer's declaration for 2012, overturns ZATCA amendment to Zakat Payer's declaration for the year in question after expiry of statutory period for issuing final assessment, and overturns Primary Department's Decision in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Company), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in

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Jeddah Decision No. (IZJ-2020-171) rendered in Case No. (Z-7713-2019) regarding tax assessment for 2012.

Second: On Merits:

Accept Zakat Payer's appeal and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah according to reasons and Grounds stated herein.

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

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Keywords
Zakat - Accounts - Expiry of Statutory Period - Illness of Liaison Officer - Lapse of Statutory Period for Making Amendments - Accepting Appeal - Overturning Primary Department Decision

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IZD-2021-1098) regarding zakat assessment for 1432. Zakat Payer's appeal involves claim that Zakat Payer did not file objection before ZATCA within the statutory period for a reason attributed to coincidence of reassessment with illness of liaison officer who is responsible for SMS. The Department found that ZATCA reopened assessments after expiry of the statutory period. Therefore, the Department accepts Zakat Payer's appeal and overturns Primary Department's Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider appeal filed on .. /.. in his capacity as owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2021-1098) rendered in Case No. (Z-40555-2021) related to zakat assessment for 1432 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case in form filed by Plaintiff (...), holder of National ID No (...), against Defendant (ZATCA).

Dissatisfied with this Decision, Zakat Payer (...) submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming failure to file an objection within the statutory period due to a reason beyond its control, which is a fire at the Head Office on 10/10/1432 AH, including Accounting Department at that time. In addition, Zakat Payer claims failure to file an objection to reassessment within the statutory period due to illness of liaison officer who is responsible for SMS when the assessment was received. Thereupon, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal and hear the Case on merits for the aforementioned reasons.

On Monday, 04/08/1443 AH corresponding to 07/03/2022 AD, the Department decided holding remote litigation session for (10) days. Therefore, ZATCA submitted an answer

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wherein replies to Zakat Payer's appeal, by reiterating its previous position presented before Primary Department. In addition, Zakat Payer did not file an objection before ZATCA within the statutory period. Therefore, ZATCA Decision becomes unappealable in accordance with Paragraph (1) of Article (22) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH and Article (2) of Tax Dispute and Violation Committee Procedures. In addition, Zakat Payer did not file an objection before Primary Committee within the statutory period. Therefore, ZATCA Decision becomes unappealable by lapse of the statutory period in accordance with Paragraph (2) of Article (3) of Tax Dispute and Violation Committee Procedures. Furthermore, ZATCA requests the Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On Wednesday, 20/08/1443 AH corresponding to 23/03/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Zakat Payer's appeal involves claim that Zakat Payer did not file an objection before ZATCA within the statutory period for a reason attributed to coincidence of reassessment with illness of liaison officer who is responsible for SMS. On the other hand, ZATCA requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of dispute, the Department found that ZATCA assessment for 1432 was made after expiry of statutory period for making amendments to Zakat Payer's declaration, which is five years from the deadline for filing Zakat Payer's declaration for each year. It is worth noting that these rules are established to maintain transaction stability and prevent instability of Zakat Payers' financial positions in case of lack of a timeframe that ensures maintaining their financial positions, which was confirmed by Zakat Payer's objection before ZATCA. Since this matter does not result in releasing Zakat Payer from the legal obligation if Zakat Payer is already concerned with fulfilling such obligation, but rather outlines a procedural issue with relation to ZATCA right to reopen assessments after expiry of statutory period. Therefore, the Department concludes that ZATCA procedure for making amendments was invalid. Thereupon, the Department accepts Zakat Payer's appeal and overturns Primary Department's Decision. In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (...), holder of National ID No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No (IZD-2021-1098) rendered in Case No. (Z-40555-2021) regarding tax assessment for 1432.

Second: On Merits:

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Accept Zakat Payer's appeal and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam according to reasons and Grounds stated herein.

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

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Keywords

Zakat - Accounts - ZATCA Assessment after Expiry of Statutory Period - Import Variances - Contract Variances

Abstract

Appellant (ZATCA) requests overturning Primary Department's Decision No. (Z-7754-2019) regarding zakat assessment for 2011. Having taken cognizance of Case file, since the statutory period for making assessment is five years from the deadline for filing declaration. Having taken cognizance of letters of amendments made by ZATCA to Zakat Payer's declaration, it turns out that ZATCA made assessment for Zakat Payer on 15/11/2018 AD. Since the date of filing zakat declaration for 2011 expires on 30/04/2011 AD, it turns out that the assessment was made after expiry of five-year period from the date of filing Zakat Payer's declaration. Therefore, the Department dismisses the appeal and upholds Primary Department's Decision.

Documents

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal filed on .. /.. /... corresponding to ../.. /... by ZATCA against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-222) rendered in Case No. (Z-7754-2019) regarding zakat assessment for 2011 filed by Appellant against ZATCA. Primary Department's Decision states:

1. Accept objection filed by Plaintiff regarding zakat assessment for 2011 and 2012.
2. Accept objection filed by Plaintiff regarding depreciation variances.
3. Accept objection filed by Plaintiff regarding excess social insurance expenses.
4. Accept objection filed by Plaintiff regarding import variances.
5. Accept objection filed by Plaintiff regarding provisions.
6. Accept objection filed by Plaintiff regarding advance payments.
7. Accept objection filed by Plaintiff regarding financing lease obligations for 2011.
8. Accept objection filed by Plaintiff regarding project provision.
9. Accept objection filed by Plaintiff regarding accounts payable.
10. Accept objection filed by Plaintiff regarding fixed assets.
11. Establish resolution of dispute regarding deferred financing interests.
12. Establish resolution of dispute regarding expenses of previous years.

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13. Establish resolution of dispute regarding advance payments of purchasing fixed assets.
14. Accept objection filed by Plaintiff regarding loans against fixed assets for 2012.
15. Establish resolution of dispute regarding lease obligations for 2013.

Dissatisfied with this Decision, Appellant (ZATCA) submitted a statement of appeal summarized as follows:

ZATCA objects to Primary Department's Decision subject matter of appeal, specifically limiting its objection to Primary Department's Decision in "Second: On Merits", arguing the following: Regarding statute of limitations, it involves ZATCA ability to prove that Zakat Payer's declaration is incorrect, which alone justifies ZATCA right to amend the declaration in accordance with Paragraph (8.C) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. Furthermore, Primary Department's confidence in all items was primarily based on its confidence in (Import Variances) item and (Contract Variances) item, despite the fact that ZATCA made amendments to fifteen items. In addition, ZATCA has demonstrated the correctness of amendments to the items subject matter of appeal as stated in the amended assessment. Regarding the remaining items, the Department has rendered Decisions regarding years that are not relevant to the year in question. In addition, the Department did not discuss those items with ZATCA representative during the hearing. The Department provided a single reasoning for all items, which is "The Department has confidence in accuracy of Plaintiff's declaration and accordingly accepts Plaintiff's objection", without specifying Documents relied upon in confidence in Zakat Payer's declaration. Furthermore, the Primary Department did not detail the reason for confidence in Zakat Payer's submission, rendering the Decision flawed and unsubstantiated due to the lack of clarity, as judicial rulings and their justifications should be based on certainty and established Facts, rather than assumptions or mere confidence. In addition, ZATCA reiterates the points made in its detailed memorandum submitted to the Department regarding these items. Therefore, ZATCA requests overturning Primary Department's Decision for the aforementioned reasons.

Since the Department decided opening of pleadings, Zakat Payer submitted an answer dated 22/05/1442 AH corresponding to 05/01/2021 AD wherein replies to ZATCA appeal. Zakat Payer argues the following: Regarding Department's alleged failure to provide reasons for its confidence in the accuracy of Defendant's declaration, this falls within the jurisdiction of the Department. In fact, the Department's Decision was well-reasoned, dismissing ZATCA amendments to the two declarations because ZATCA had no right to make such amendments after expiry of five-year statutory period, given the correctness of Zakat Payer's declaration. This removes the obligation for the Honorable Department to substantively adjudicate those items, as doing so would be futile given its ruling in favor of Zakat Payer, allowing the declaration to stand without amendment by ZATCA, a point that ZATCA overlooked. Moreover, ZATCA also failed to recognize that the Honorable Department had relieved itself of the duty to adjudicate those items because ZATCA is not entitled to make such amendments, rendering those amendments null and void. The Department ruled on the merits because ZATCA did not provide the necessary evidence to substantiate its claims. Therefore, Zakat Payer requests dismissing ZATCA appeal and upholding Primary Department's Decision subject matter of appeal for the aforementioned reasons.

On Wednesday, 07/03/1443 AH corresponding to 13/10/2021 AD, the Department decided holding remote litigation session for (10) days. Therefore, Zakat Payer submitted Documents that their content does not differ from what had previously been submitted.

On Thursday 03/06/1443 AH corresponding to 06/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its

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merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by ZATCA, the Department found that the formal requirements for appeal hearing have been met as stipulated by the relevant laws, regulations and Decisions. Therefore, the appeal is accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

Having taken cognizance of subject matter of the dispute and Case file, since the statutory period for making assessment is five years from the deadline for filing declarations. Having taken cognizance of letters of amendments made by ZATCA to Zakat Payer's declaration, it turns out that ZATCA made assessment for Zakat Payer on 15/11/2018 AD. Since the date of filing zakat declaration for 2011 expires on 30/04/2011 AD, it turns out that the assessment was made after expiry of five-year period from the date of filing Zakat Payer's declaration. This is not affected by ZATCA argument that it is entitled to reopen assessments after expiry of the statutory period due to misapplication of the law by Zakat Payer, as the exception permitted by the legislator is limited to material and computational errors, which involve arithmetic operations and numerical processing. However, the application of the law or changes in practice regarding its application are matters for which the legislator did not grant ZATCA the right to reassess Zakat Payer after expiry of five-year period. Since the principal rule is to accept Zakat Payer's declaration unless evidence to the contrary is presented. Since the resolutions of zakat collection were based on determining period of five years from the deadline for filing zakat declaration for each year. Since this period is established to ensure transaction stability and prevent instability of Zakat Payers' financial positions in case of lack of a timeframe that ensures maintaining their financial positions. Thereupon, the Department dismisses ZATCA appeal overturns and upholds the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Appellant (ZATCA) against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No (IZD-2020-222) rendered in Case No. (Z-7754-2019) regarding tax assessment for 2011.

Second: On Merits:

Dismiss ZATCA appeal and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam according to reasons and Grounds stated herein.

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

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Decision No. IR-2022-22
Case No. Z-30920-2020

Keywords
Zakat - Accounts - Total Expenses - Expiry of Statutory Period for Amendments to Zakat Declaration - Zakat Assessment

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IZD-2020-188) regarding zakat assessment for 2011. Since the Department concluded that ZATCA assessment was after expiry of the statutory period for making amendments to Zakat Payer's declaration, which is five years from the deadline for filing Zakat Payer's declaration for each year. Since these rules are established to maintain transaction stability and prevent instability of Zakat Payers' financial positions in case of lack of a timeframe that ensures maintaining their financial positions. Therefore, the Department concludes that ZATCA procedure for making amendments was invalid. Therefore, the Department accepts Zakat Payer's appeal and overturns Primary Department's Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

To consider the appeal filed on ../../... /... corresponding to ../.. /... by ..., holder of National ID No. (...), in his capacity as Manager of Appellant Company, under Company's memorandum of association, against Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-188) rendered in Case No. (Z-7844-2019) regarding zakat assessment for 2011 filed by Appellant against ZATCA. Primary Department's Decision states:

In from: Accept the Case in form filed by Plaintiff (... Company), C.R. No. (...).

On Merits:

1. Dismiss objection filed by Plaintiff regarding (Import Variance) item amounting to SAR 51,443.
2. Dismiss objection filed by Plaintiff regarding (Loans) item amounting to SAR 9,089,898.
3. Dismiss objection filed by Plaintiff regarding (Suppliers) item amounting to SAR 7,675,174.
4. Dismiss objection filed by Plaintiff regarding (Credit Balances) item amounting to SAR 10,370,370.
5. Dismiss objection filed by Plaintiff regarding (Investments) item amounting to SAR 2,754,616.
6. Dismiss objection filed by Plaintiff regarding (Insufficient Objection Period) item.

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Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming the following: Regarding (Total Disallowable Expenses) item, Zakat Payer states that these expenses are related to spare parts classified as assets. In addition, the Company does not engage in importing from abroad due to the nature of its business; instead, all project requirements and necessary work materials are sourced domestically. Regarding (Loans and the equivalent) item, Zakat Payer claims that this amount outlines short-term loan installments, meaning these are loans granted and repaid within a period of less than one year according to bank's facility agreement. Regarding (Suppliers) item, Zakat Payer claims that an amount of SAR 4,967,241 has not completed a full year. Regarding (Credit Balances), Zakat Payer claims that suppliers' account statement for 2011 shows that an amount of SAR 6,937,817 has not completed a full year. Regarding (Investments) item, Zakat Payer contends that this amount does not constitute an investment, as it is held by (…) Bank. In addition, this amount is pledged to the Bank to secure facilities. Zakat Payer also stated that the objection period was insufficient to submit and consider all Documents because the assessment was based on old years, making it difficult to obtain the necessary Documents within the legally specified time. Therefore, Zakat Payer requests overturning Primary Department's Decision for the aforementioned reasons.

On Wednesday, 20/11/1442 AH corresponding to 29/06/2021 AD, the Department decided holding remote litigation session for (10) days. Therefore, ZATCA submitted an answer wherein replies to Zakat Payer's appeal, by reiterating its previous position presented before Primary Department regarding the items subject matter of appeal. Moreover, Zakat Payer's arguments do not differ from what previously submitted, to which ZATCA has already answered at that time. In addition, ZATCA requests the Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On Tuesday, 18/12/1442 AH corresponding to 27/07/2021 AD, the Department requested the General Secretariat to provide information regarding Zakat Payer's claim of an error in calculating statutory period for filing appeal. In addition, the Department asked Zakat Payer to provide evidence of the alleged technical error stated in the appeal. However, Zakat Payer did not submit the requested information.

On Thursday, 17/06/1443 AH corresponding to 20/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Having taken cognizance of Case file, the Department found that ZATCA assessment was made after expiry of statutory period for making amendments to Zakat Payer's declaration, which is five years from the deadline for filing Zakat Payer's declaration for each year. Since these rules are established to maintain transaction stability and prevent instability of Zakat Payer's financial positions in case of lack of a timeframe

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that ensures maintaining their financial positions. Since this matter does not result in releasing Zakat Payer from the legal obligation if Zakat Payer is already concerned with fulfilling such obligation, but rather outlines a procedural issue with relation to ZATCA right to assess Zakat Payer after expiry of statutory period. Therefore, the Department concluded that ZATCA procedure for making amendments was invalid. Thereupon, the Department accepts Zakat Payer's appeal regarding all contested items and overturns Primary Department's Decision regarding such items.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Company), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No (IZD-2020-188) rendered in Case No. (Z-7844-2019) regarding tax assessment for 2011.

Second: On Merits:

Accept Zakat Payer's appeal and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam regarding all items according to reasons and Grounds stated herein.

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

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Keywords
Zakat - Accounts - Prescription of Legal Period - Emergency - COVID-19 Pandemic - Rejection of Appeal

Abstract

The Appellant (Zakat Payer) is requesting the cancellation of Primary Decision No. (ISR-2021-705) regarding zakat assessment for 2013. Zakat payer's appeal centers on the fact that its objection to ZATCA was submitted after lapse of prescribed time due to the coinciding timing of the objection with the circumstances of the COVID-19 pandemic. This Department found that Zakat payer's submission of its objection to ZATCA for 2013 was after lapse of prescribed time for submitting the objection. Therefore, the Department decided to reject the appeal and uphold the Primary Department Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on ../../... /...., corresponding to .. /.. /..., by/ ...., ID No. (...), in his capacity as Owner of Appellant Enterprise, against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2021-705) issued in Case No. (Z-40648-2021), related to Zakat assessment for 2013, filed by the Appellant against ZATCA, in which the primary Decision ruled as follows:

Not to consider the case filed by the Plaintiff/ ....., ID. No (.....), against the Defendant/ ZATCA, as per the aforementioned Grounds.

The Department convened to consider the appeal filed on 27/02/1443 AH, corresponding to 04/10/AD, by/..., ID. No. (...), in his capacity as the Owner of Appellant Enterprise, against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2021-705) issued in Case No. (Z-40648-2021), related to Zakat assessment for 2013, filed by the Appellant against ZATCA, in which the primary Decision ruled as follows:

Not to consider the case filed by the Plaintiff/ ....., ID. No (.....), against the Defendant/ ZATCA, as per the aforementioned Grounds.

Since Zakat Payer (... Enterprise) was dissatisfied with this Decision, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat payer is objecting to the appealed primary Decision, arguing that its objection coincided with the COVID-19 pandemic, which affected its ability to submit the objection

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within the prescribed period. Additionally, Zakat payer argues that rejection of the objection in form does not preclude referring the objection to the Primary Committee pursuant to Article (22.5) of the Implementing Regulations for Zakat Collection issued in 1438 AH. Therefore, Zakat payer requests to overturn the appealed primary Decision, and to consider its case on merits in light of the aforementioned reasons.

On Monday, 04/08/1443 AH corresponding to 07/03/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary Department. ZATCA also argued that Zakat payer did not object to ZATCA's Decision within the prescribed period, rendering ZATCA's Decision final and immune from appeal, citing Article (22.1) of Implementing Regulations for Zakat Collection issued in 1438 AH and Article (2) of Tax Dispute and Violation Committee Procedures As such, ZATCA requests that the Department does not accept any new requests from Zakat payer, citing Article (186) of the Law of Civil Procedure. ZATCA, accordingly, maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons.

On Sunday, 17/08/1443 AH corresponding to 20/03/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits, Zakat payer's appeal is based on the argument that its submission of an objection to ZATCA after prescribed period was due to the circumstances of the COVID-19 pandemic, However, ZATCA requested dismissing Zaka payer's appeal and upholding Primary Department's Decision. Having carefully considered the subject matter of dispute and after examining the Documents in the case file, this Department has found that Zakat payer submitted its objection to ZATCA for 2013 after the prescribed time for submitting objections had lapsed. The Department has also established the validity of the conclusion made by the Primary Department issuer of the appealed Decision, and that the reasons upon which that Decision was based are sufficient to uphold it. Zakat payer's argument that it did not submit its objection to ZATCA does not affect the outcome reached by the Department. Accordingly, this Department hereby dismisses Zakat payer's appeal and upholds the primary Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ Enterprise, CR. NO. (…), TIN No (…) against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISR-2021-705) issued regarding Case No. (Z-40648-2021) in connection with zakat assessment for 2013.

Second: On Merits:

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Dismiss the appeal filed by Zakat payer and uphold the Decision taken by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the Grounds mentioned therein.

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

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-103
Case No. Z-73693-2021

Keywords

Zakat - Accounts - Prescription of Legal Period - Emergency - Rejection of Appeal - Uphold Primary Decision

Abstract

The Appellant (Zakat Payer) is requesting the cancellation of Primary Decision No. (ISR-2021-701) regarding zakat assessment for 2014. Zakat payer's appeal centers on the fact that its objection to ZATCA was submitted after lapse of prescribed time due to the coinciding timing of the objection with the circumstances of the COVID-19 pandemic. This Department has established the validity of the conclusion made by the Primary Department, issued of the appealed Decision. Therefore, the Department has decided to dismiss the appeal and uphold the Primary Department's Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on .. /../... AH, corresponding to ../../... AD, by/ …., ID No. (...), in his capacity as Owner of Appellant Enterprise, against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2021-701) issued in Case No. (Z-40537-2021), related to zakat assessment for 2014, filed by the Appellant against ZATCA, in which the primary Decision ruled as follows:

Not to consider the case filed by the Plaintiff/ ....., ID. No (.....), against the Defendant/ ZATCA, as per the aforementioned Grounds.

Since Zakat Payer (... Enterprise) was dissatisfied with this Decision, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat payer is objecting to the appealed primary Decision, arguing that its objection coincided with the COVID-19 pandemic, which affected its ability to submit the objection within the prescribed period. Additionally, Zakat payer argues that rejection of the objection in form does not preclude referring the objection to the Primary Committee pursuant to Article (22.5) of the Implementing Regulations for Zakat Collection issued in 1438 AH. Therefore, Zakat payer requests to overturn the appealed primary Decision, and to consider its case on merits in light of the aforementioned reasons.

On Monday, 04/08/1443 AH corresponding to 07/03/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary

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Department. ZATCA also argued that Zakat payer did not object to ZATCA's Decision within the prescribed period, rendering ZATCA's Decision final and immune from appeal, citing Article (22.1) of Implementing Regulations for Zakat Collection issued in 1438 AH and Article (2) of Tax Dispute and Violation Committee Procedures As such, ZATCA requests that the Department does not accept any new requests from Zakat payer, citing Article (186) of the Law of Civil Procedure. ZATCA, accordingly, maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons.

On Sunday, 17/08/1443 AH corresponding to 20/03/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits, Zakat payer's appeal is based on the argument that its submission of an objection to ZATCA after prescribed period was due to the circumstances of the COVID-19 pandemic, However, ZATCA requested dismissing Zaka payer's appeal and upholding Primary Department's Decision. Having considered the subject matter of dispute and after examining the Documents in the case file, the Department has established the validity of the conclusion made by the Primary Department, issuer of the appealed Decision. The reasons upon which that Decision was based are sufficient to uphold it. Accordingly, this Department hereby dismisses Zakat payer's appeal and upholds the primary Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ Enterprise....., CR. NO. (…), TIN No (…) against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISR-2021-701) issued regarding Case No. (Z-40537-2021) in connection with zakat assessment for 2014.

Second: On Merits:

Dismiss the appeal filed by Zakat payer and uphold the Decision taken by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the Grounds mentioned therein.

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

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-104
Case No. Z-73694-2021

Keywords
Zakat - Accounts - Prescription of Legal Period - Emergency - Rejection of Appeal

Abstract

The Appellant (Zakat Payer) is requesting the cancellation of Primary Decision No. (ISR-2021-702) regarding zakat assessment for 2015. Zakat payer's appeal centers on the fact that its objection to ZATCA was submitted after lapse of prescribed time due to the coinciding timing of the objection with the circumstances of the COVID-19 pandemic. The Department has established the validity of the conclusion made by the Primary Department, issuer of the appealed Decision. Therefore, the Department hereby decides to dismiss the Zakat payer's appeal and uphold the primary Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on .. /.. /.... AH, corresponding to .../.././.... AD, by/ …ID No. (....), in his capacity as Owner of Appellant Enterprise, against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2021-702) rendered in Case No. (Z-40611-2021) related to zakat assessment for 2015, filed by Appellant against ZATCA, in which the primary Decision stated as follows:

Not to consider the case filed by the Plaintiff/ ....., ID. No (.....), against the Defendant/ ZATCA, as per the aforementioned Grounds.

Since Zakat Payer (... Enterprise) was dissatisfied with this Decision, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat payer is objecting to the appealed primary Decision, arguing that its objection coincided with the COVID-19 pandemic, which affected its ability to submit the objection within the prescribed period. Additionally, Zakat payer argues that rejection of the objection in form does not preclude referring the objection to the Primary Committee pursuant to Article (22.5) of the Implementing Regulations for Zakat Collection issued in 1438 AH. Therefore, Zakat payer requests to overturn the appealed primary Decision, and to consider its case on merits in light of the aforementioned reasons.

On Monday, 04/08/1443 AH corresponding to 07/03/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary Department. ZATCA also argued that Zakat payer did not object to ZATCA's Decision

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within the prescribed period, rendering ZATCA's Decision final and immune from appeal, citing Article (22.1) of Implementing Regulations for Zakat Collection issued in 1438 AH and Article (2) of Tax Dispute and Violation Committee Procedures As such, ZATCA requests that the Department does not accept any new requests from Zakat payer, citing Article (186) of the Law of Civil Procedure. ZATCA, accordingly, maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons.

On Sunday, 17/08/1443 AH corresponding to 20/03/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits, Zakat payer's appeal is based on the argument that its submission of an objection to ZATCA after prescribed period was due to the circumstances of the COVID-19 pandemic, However, ZATCA requested dismissing Zaka payer's appeal and upholding Primary Department's Decision. Having considered the subject matter of dispute and after examining the Documents in the case file, the Department has established the validity of the conclusion made by the Primary Department, issuer of the appealed Decision. The reasons upon which that Decision was based are sufficient to uphold it. Accordingly, this Department hereby dismisses Zakat payer's appeal and upholds the primary Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ Enterprise....., CR. NO. (…), TIN No (…) against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISR-2021-702) issued regarding Case No. (Z-40611-2021) in connection with zakat assessment for 2015.

Second: On Merits:

Dismiss the appeal filed by Zakat payer and uphold the Decision taken by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the Grounds mentioned therein.

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

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-105
Case No. Z-73697-2021

Keywords
Zakat - Accounts - Prescription of Legal Period - Emergency - Rejection of Appeal

Abstract

The Appellant (Zakat Payer) is requesting the cancellation of Primary Decision No. (ISR-2021-703) regarding zakat assessment for 2016. Zakat payer's appeal centers on the fact that its objection to ZATCA was submitted after lapse of prescribed time due to the coinciding timing of the objection with the circumstances of the COVID-19 pandemic. The Department has established the validity of the conclusion made by the Primary Department, issuer of the appealed Decision. Therefore, the Department hereby decides to dismiss the Zakat payer's appeal and uphold the primary Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on .. /.. /… AH, corresponding to ../../... AD, by/ …., ID No. (...), in his capacity as Owner of Appellant Enterprise, against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2021-703) issued in Case No. (Z-40614-2021), related to Zakat assessment for 2016, filed by the Appellant against ZATCA, in which the primary Decision ruled as follows:

Not to consider the case filed by the Plaintiff/ ....., ID. No (.....), against the Defendant/ ZATCA, as per the aforementioned Grounds.

Since Zakat Payer (... Enterprise) was dissatisfied with this Decision, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat payer is objecting to the appealed primary Decision, arguing that its objection coincided with the COVID-19 pandemic, which affected its ability to submit the objection within the prescribed period. Additionally, Zakat payer argues that rejection of the objection in form does not preclude referring the objection to the Primary Committee pursuant to Article (22.5) of the Implementing Regulations for Zakat Collection issued in 1438 AH. Therefore, Zakat payer requests to overturn the appealed primary Decision, and to consider its case on merits in light of the aforementioned reasons.

On Monday, 04/08/1443 AH corresponding to 07/03/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary Department. ZATCA also argued that Zakat payer did not object to ZATCA's Decision

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within the prescribed period, rendering ZATCA's Decision final and immune from appeal, citing Article (22.1) of Implementing Regulations for Zakat Collection issued in 1438 AH and Article (2) of Tax Dispute and Violation Committee Procedures As such, ZATCA requests that the Department does not accept any new requests from Zakat payer, citing Article (186) of the Law of Civil Procedure. ZATCA, accordingly, maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons.

On Sunday, 17/08/1443 AH corresponding to 20/03/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits, Zakat payer's appeal is based on the argument that its submission of an objection to ZATCA after prescribed period was due to the circumstances of the COVID-19 pandemic, However, ZATCA requested dismissing Zaka payer's appeal and upholding Primary Department's Decision. Having considered the subject matter of dispute and after examining the Documents in the case file, the Department has established the validity of the conclusion made by the Primary Department, issuer of the appealed Decision. The reasons upon which that Decision was based are sufficient to uphold it. Accordingly, this Department hereby dismisses Zakat payer's appeal and upholds the primary Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ Enterprise....., CR. NO. (…), TIN No (…) against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISR-2021-703) issued regarding Case No. (Z-40614-2021) in connection with zakat assessment for 2016.

Second: On Merits:

Dismiss the appeal filed by Zakat payer and uphold the Decision taken by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the Grounds mentioned therein.

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

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-106
Case No. Z-73698-2021

Keywords
Zakat - Accounts - Prescription of Legal Period - Emergency - Rejection of Appeal

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (ISR-2021-704) regarding zakat assessment for 2017. Zakat payer's appeal centers on the fact that its objection to ZATCA was submitted after lapse of prescribed time due to the coinciding timing of the objection with the circumstances of the COVID-19 pandemic. The Department has established the validity of the conclusion made by the Primary Department, issuer of the appealed Decision. Therefore, the Department hereby decides to dismiss the Zakat payer's appeal and uphold the primary Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

The Department convened to consider the Appeal filed on ../../ AH, corresponding to ../../... AD, by/ …., ID No. (...), in his capacity as Owner of Appellant Enterprise, against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2021-704) issued in Case No. (Z-40620-2021), related to Zakat assessment for 2017, filed by the Appellant against ZATCA, in which the primary Decision ruled as follows:

Not to consider the case filed by the Plaintiff/ ....., ID. No (.....), against the Defendant/ ZATCA, as per the aforementioned Grounds.

Since Zakat Payer (... Enterprise) was dissatisfied with this Decision, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat payer is objecting to the appealed primary Decision, arguing that its objection coincided with the COVID-19 pandemic, which affected its ability to submit the objection within the prescribed period. Additionally, Zakat payer argues that rejection of the objection in form does not preclude referring the objection to the Primary Committee pursuant to Article (22.5) of the Implementing Regulations for Zakat Collection issued in 1438 AH. Therefore, Zakat payer requests to overturn the appealed primary Decision, and to consider its case on merits in light of the aforementioned reasons.

On Monday, 04/08/1443 AH corresponding to 07/03/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary Department. ZATCA also argued that Zakat payer did not object to ZATCA's Decision

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within the prescribed period, rendering ZATCA's Decision final and immune from appeal, citing Article (22.1) of Implementing Regulations for Zakat Collection issued in 1438 AH and Article (2) of Tax Dispute and Violation Committee Procedures As such, ZATCA requests that the Department does not accept any new requests from Zakat payer, citing Article (186) of the Law of Civil Procedure. ZATCA, accordingly, maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons.

On Sunday, 17/08/1443 AH corresponding to 20/03/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits, Zakat payer's appeal is based on the argument that its submission of an objection to ZATCA after prescribed period was due to the circumstances of the COVID-19 pandemic, However, ZATCA requested dismissing Zaka payer's appeal and upholding Primary Department's Decision. Having considered the subject matter of dispute and after examining the Documents in the case file, the Department has established the validity of the conclusion made by the Primary Department, issuer of the appealed Decision. The reasons upon which that Decision was based are sufficient to uphold it. Accordingly, this Department hereby dismisses Zakat payer's appeal and upholds the primary Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ Enterprise....., CR. NO. (…), TIN No (…) against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISR-2021-704) issued regarding Case No. (Z-40620-2021) in connection with zakat assessment for 2017.

Second: On Merits:

Dismiss the appeal filed by Zakat payer and uphold the Decision taken by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the Grounds mentioned therein.

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

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-35
Case No. Z-29813-2020

Keywords

Zakat - Accounts - Prescription of Legal Period - Liquidation of Company according to Bankruptcy Law- Remand the Case

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IZD-2020-206) regarding zakat assessment for 2018. Zakat payer's appeal centers on the fact that it was unable to submit its objection within the prescribed time due to circumstances related to the Company's liquidation proceedings in accordance with the bankruptcy law. Upon carefully considering the subject matter of dispute, the Department finds that, according to the Facts of the case and its Documents, liquidation proceedings have been initiated for the Appellant Company in accordance with the bankruptcy law. Furthermore, the Documents submitted by the Company's Representative regarding the liquidation proceedings justify the Zakat payer's delay in submitting its objection to ZATCA. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on .../../..., corresponding to .../../..., by/ ..., ID. No. (...), in his capacity as the Appellant Company's Attorney pursuant to a liquidation judgment in accordance with the bankruptcy law, against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No.(IZD-2020-206), issued in Case No. (Z-2474-2020), related to zakat assessment for 2018, filed by the Appellant against ZATCA, in which the primary Decision ruled as follows:

Inadmissibility of the Case filed by the Plaintiff/ Company ..., CR. No. (...), against the Defendant/ ZATCA, in form due to the Plaintiff's failure to submit an objection to the Defendant's Decision within the prescribed period.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

Zakat payer objects to the appeal primary Decision. Zakat payer claim that the Company was undergoing liquidation in accordance with the bankruptcy law at the time of the assessment subject matter of the case. Zakat payer was unable to determine its financial position and prepare its financial statements before lapse of prescribed period, leading to

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rejection of its objection in form due to lapse of limit time. Therefore, Zakat payer requests to overturn the appeal primary Decision based on the aforementioned reasons.

On … dated ../../.. AH corresponding to ../../.. AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, affirming its previously stated position before Primary Department. In addition, The primary Decision is in accordance with the provisions of Article (2) of Tax Dispute and Violation Committee Procedures. Moreover, Zakat payer's arguments do not deviate from what was previously presented and responded to by ZATCA. As such, ZATCA requests that the Department does not accept any new requests from Zakat payer, citing Article (186) of the Law of Civil Procedure. ZATCA, accordingly, maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat payer's appeal centers on the fact that it was unable to submit its objection within the prescribed time due to circumstances related to the Company's liquidation proceedings in accordance with the bankruptcy law. Meanwhile, ZATCA has requested to dismiss Zakat payer's appeal and uphold the primary Decision. Upon carefully considering the subject matter of dispute, it is established that, according to the Facts of the case and its Documents, liquidation proceedings have been initiated for the Appellant Company in accordance with the bankruptcy law. Furthermore, the Documents submitted by the Company's Representative regarding the liquidation proceedings justify Zakat payer's delay in submitting its objection to ZATCA, due to the fact that initiation date of liquidation proceedings for the Company was .../../..., corresponding to ../.../... AD, which is the same year in which the assessment Decision was issued. Therefore, the delay of the Company's Representative (Bankruptcy Trustee) in submitting an objection is justified, as it is his duty to conduct an assessment of the debtor's assets, collect funds and rights on behalf of the debtor, and verify the debts owed by the debtor, including zakat due according to ZATCA's assessment and the need to submit a report accepting such assessment or a reasoned objection on behalf of the debtor. Given the aforementioned circumstances, this Department has decided to cancel the primary Decision and to remand the case for consideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ Company…, CR. NO. (…), TIN No (…) against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No (IZD-2020-206) issued regarding Case No. (Z-2474-2020) in connection with zakat assessment for 2018.

Second: On Merits:

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Accept Zakat Payer's appeal, overturn Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.
May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-143
Case No. Z-84975-2021

Keywords
Zakat - Accounts - Expiry of Statutory Period - Ignorance of New Laws - Overturning Primary Department's Decision - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IZJ-2021-1616) regarding zakat assessment for 1437. Zakat Payer's appeal involves the claim of failure to file an objection within the statutory period for a reason attributed to ignorance of new laws. Since the Appellate Department found that assessment letter did not meet the formal requirements stipulated by the law, as such assessment did not include reasons for amendment whereby Zakat Payer can file a reasoned objection, as ZATCA should state the reasons for amendment, so that Zakat Payer can accept or object to ZATCA amendment. Since the matter was no as stated; therefore, this Department concludes that ZATCA assessment is marred by a defect in form. This is not affected by the provisions set by legislator, which make ZATCA assessment Decision unappealable by lapse of statutory period for objection, as this matter applies when the Decision is valid and meets formal requirements stipulated by the law. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider appeal filed on ../../... AH, Corresponding to ../../... AD, by ..., holder of National ID No.(…) in his capacity as Owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No.(IZJ-2021-1616) rendered in Case No. (Z-55256-2021) regarding zakat assessment for 1437 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case in form filed by Plaintiff (...), holder of National ID No. (...), against Defendant (ZATCA) as stated in the Grounds.

Since Zakat Payer (... Enterprise) was dissatisfied with this Decision, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming failure to file an objection within the statutory period due to ignorance of laws and their accelerating pace and due to lack of experience. In addition, Zakat Payer argues that the activity of Head Office was ceased. Therefore, Zakat Payer requests overturning Primary

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Department's Decision subject matter of appeal and hearing the Case on merits for the aforementioned reasons.

Since the Department decided opening of pleadings, ZATCA submitted an answer dated 08/07/1443 AH corresponding to 09/02/2022 AD wherein replies to Zakat Payer's appeal. The answer is summed up in that ZATCA reiterates its previous position submitted before Primary Department. Moreover, Zakat Payer did not file an objection before ZATCA within the statutory period stipulated by Paragraph (1) of Article (22) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH and Article (2) of Tax Dispute and Violation Committee Procedures. Therefore, ZATCA Decision becomes unappealable. Furthermore, ZATCA requests the Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On ....., dated .../../.... AH, corresponding to .../../... AD, the Department decided to hold a remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On ....., dated .../../.... AH, corresponding to .../../... AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Zakat Payer's appeal involves claim that Zakat Payer did not file an objection within the statutory period for a reason attributed to ignorance of new laws. On the other hand, ZATCA requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of Zakat Payer's appeal for 1437, Documents included in Case file and ZATCA assessment letter, the Department found that assessment letter did not meet the formal requirements stipulated by the law, as such assessment did not include reasons for amendment whereby Zakat Payer can file a reasoned objection, as ZATCA should state the reasons for amendment, so that Zakat Payer can accept or object to ZATCA amendment. Since the matter was no as stated; therefore, this Department concludes that ZATCA assessment is marred by a defect in form. This is not affected by the provisions set by legislator, which make ZATCA assessment Decision unappealable by lapse of statutory period for objection, as this matter applies when the Decision is valid and meets formal requirements stipulated by the law. Therefore, this Department overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah and remands the Case for reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes in

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Jeddah Decision No (IZJ-2021-1616) rendered in Case No. (Z-55256-2021) regarding tax assessment for 1437.

Second: On Merits:

Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-144
Case No. Z-84976-2021

Keywords

Zakat - Accounts - Expiry of Statutory Period - Ignorance of New Laws - Overturning Primary Department's Decision - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IZJ-2021-1615) regarding zakat assessment for 1438. Zakat Payer's appeal involves claim of failure to file an objection within the statutory period for a reason attributed to ignorance of new laws. Since the Appellate Department found that assessment letter did not meet the formal requirements stipulated by the law, as such assessment did not include reasons for amendment whereby Zakat Payer can file a reasoned objection, as ZATCA should state the reasons for amendment, so that Zakat Payer can accept or object to ZATCA amendment. Since the matter was not as stated; therefore, this Department concludes that ZATCA assessment is marred by a defect in form. This is not affected by the provisions set by legislator, which make ZATCA assessment Decision unappealable by lapse of statutory period for objection, as this matter applies when the Decision is valid and meets formal requirements stipulated by the law. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider appeal filed on ../../... AH, corresponding to ../../... AD, by ..., holder of National ID No.(…), in his capacity as Owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No.(IZJ-2021-1615) rendered in Case No. (Z-55258-2021) regarding zakat assessment for 1438 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case in form filed by Plaintiff (...), holder of National ID No. (...), against Defendant (ZATCA) as stated in the Grounds.

Dissatisfied with this Decision, Zakat Payer (... Enterprise) submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming failure to file an objection within the statutory period due to ignorance of laws and their accelerating pace and due to lack of experience. In addition, Zakat Payer argues that the activity of Head Office was ceased. Therefore, Zakat Payer requests overturning Primary

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Department's Decision subject matter of appeal and hearing the Case on merits for the aforementioned reasons.

Since the Department decided opening of pleadings, ZATCA submitted an answer dated 08/07/1443 AH corresponding to 09/02/2022 AD wherein replies to Zakat Payer's appeal. The answer is summed up in that ZATCA reiterates its previous position submitted before Primary Department. Moreover, Zakat Payer did not file an objection before ZATCA within the statutory period stipulated by Paragraph (1) of Article (22) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH and Article (2) of Tax Dispute and Violation Committee Procedures. Therefore, ZATCA Decision becomes unappealable. Furthermore, ZATCA requests the Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On … dated../../.. AH corresponding to ../../..., the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On … dated../../.. AH corresponding to ../../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Zakat Payer's appeal involves claim that Zakat Payer did not file an objection within the statutory period for a reason attributed to ignorance of new laws. On the other hand, ZATCA requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of Zakat Payer's appeal for 1438, Documents included in Case file and ZATCA assessment letter, the Department found that the assessment did not meet the formal requirements stipulated by the law, as such assessment did not include reasons for amendment whereby Zakat Payer can file a reasoned objection, as ZATCA should state the reasons for amendment, so that Zakat Payer can accept or object to ZATCA amendment. Since the matter was not as stated; therefore, this Department concludes that ZATCA assessment is marred by a defect in form. This is not affected by the provisions set by legislator, which make ZATCA assessment Decision unappealable by lapse of statutory period for objection, as this matter applies when the Decision is valid and meets formal requirements stipulated by the law. Therefore, this Department overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah and remands the Case for reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in

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Jeddah Decision No (IZJ-2021-1615) rendered in Case No. (Z-55258-2021) regarding tax assessment for 1438.

Second: On Merits:

Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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

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Keywords

Zakat - Accounts - Failure to Notify of Amended Zakat Assessment - Overturning Primary Department's Decision - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (ISR-2021-831) regarding zakat assessment for 1434. Zakat Payer's appeal involves claim of failure to be notified of amended zakat assessment on issuance date. This Department found that ZATCA did not submit sufficient evidence to support the claim that Zakat Payer was notified of assessment Decision on issuance date. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider appeal filed on ../../... AH, corresponding to ../../... AD, by ..., holder of National ID No. (...), in his capacity as Owner of Appellant Enterprise, against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IZJ-2021-831) rendered in Case No. (Z-36519-2021) regarding tax assessment for 1434 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case filed by Plaintiff (... Company), holder of National ID No (...), in his capacity as owner of (... Office), C.R. No. (....), against Defendant (ZACA) as stated in the Grounds.

Since Zakat Payer (... Enterprise) was dissatisfied with this Decision, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming that ZATCA did not give Zakat Payer a notification of amending zakat declaration. In addition, the date on which the Department relied in rendering its Decision is the date of notification issuance, rather than notification receipt date, since such notification was not received when issued and was not communicated by any method. Moreover, the conditions for amending zakat declaration shall include, in the assessment, reasons for amendment, unless ZATCA does not do thus. Therefore, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal and hear the Case on merits for the aforementioned reasons.

On … dated../../.. AH corresponding to ../../... AD, the Department decided opening of pleadings. Therefore, ZATCA submitted an answer wherein replies to Zakat Payer's

appeal. The answer is summed up in that ZATCA reiterates its previous position submitted before Primary Department. Moreover, Zakat Payer did not file an objection before ZATCA within the statutory period stipulated by Article (22) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH and Article (2) of Tax Dispute and Violation Committee Procedures. Therefore, ZATCA Decision becomes unappealable in accordance with Paragraph (1) of Article (3) of Tax Dispute and Violation Committee Procedures. Furthermore, ZATCA requests the Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On … dated../../.. AH corresponding to ../../..., having taken cognizance of Case file, the Department asked ZATCA to provide evidence on notifying Zakat Payer that ZATCA uploaded assessment Decision to ZATCA e-system within (10) days as of issuance date.

On … dated../../.. AH corresponding to ../../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Zakat Payer's appeal involves the claim of failure to be notified of amended zakat assessment on issuance date. On the other hand, ZATCA requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute and Documents included in Case file, since Zakat Payer claims failure to be notified of ZATCA assessment Decision on issuance date, on which Primary Department relied. Since this Department asked ZATCA to submit evidence on notifying Zakat Payer of ZATCA assessment Decision. Since ZATCA failed to do so. Since the matter was not as stated. Therefore, this Department overturns the Decision rendered by the Second Department for Determination of Income Tax Disputes and Violations in Riyadh and remands the Case for reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISR-2021-831) rendered in Case No. (Z-36519-2021) regarding tax assessment for 1434.

Second: On Merits:

Overturn the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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

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Keywords
Zakat - Accounts - Providing Department with a Copy of Assessment Decision - Failure to Notify Zakat Payer of Assessment - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (ISZR-2020-85) regarding zakat assessment for 2017. Zakat Payer's appeal involves objection to Primary Department's Decision that dismissed its Case in form. Having taken cognizance of subject matter of the dispute, since Zakat Payer's objection to the communicated assessment was filed on 10/07/1440 AH corresponding to 17/03/2019 AD. Since ZATCA did not submit evidence on notifying Zakat Payer of its assessment issued on 09/11/1439 AH, which is the assessment on which Primary Department relied in dismissing Zakat Payer's Case in form. Since Zakat Payer's objection was filed within the statutory period for objection that commences as of the day next to assessment notification. Therefore, the Department accepts the appeal and remands the Case.

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider appeal filed on ../../.. AH, corresponding to ../../... AD, by ..., holder of National ID No. (...), in his capacity as the legal representative of Appellant Company, against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-85) rendered in Case No. (Z-6002-2019) regarding tax assessment for 2017 filed by Appellant against ZATCA. Primary Department's Decision states:

Accept the Case in form filed by Plaintiff (... Company), C.R. No. (...) as stated in the Grounds.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming that Primary Department's Decision is invalid, as the Primary Department upheld ZATCA statement that it issued assessment letter for 2017 on 09/11/1439 AH, despite the fact that the Department asked ZATCA, during the session, to provide the Department with a copy of assessment issued on 09/11/1439 AH. However, ZATCA neither provided the Department with such assessment, its number nor any information in this regard. Since the amendment letter No. (...) dated corresponding to ../../... (Attached) is the sole

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assessment issued by ZATCA for the year in question, and that Zakat Payer objected thereto on ../../... within the statutory period for objection. Accordingly, the appeal should be accepted in form. Therefore, Zakat payer requests overturning Primary Department's Decision subject matter of appeal for the aforementioned reasons.

Since the Department decided opening of pleadings, ZATCA submitted an answer dated ../../... corresponding to ../../... wherein replies to Zakat Payer's appeal. The answer is summed up in that ZATCA reiterates its previous position submitted before Primary Department. Moreover, Zakat Payer's arguments do not differ from what previously submitted, to which ZATCA has already answered at that time. Therefore, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On ....., dated... /.. /...., corresponding to... /.. /..., the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Since Zakat Payer's appeal involves the argument that there are no valid reasons for Primary Department to dismiss the Case in form, as it was filed a by a party having capacity and within the prescribed time-limit. On the other hand, ZATCA requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute, the Department found that Zakat Payer objected to assessment communicated on 10/07/1440 AH corresponding to 17/03/2019 AD. Since ZATCA did not provide evidence on notifying Zakat Payer of its assessment issued on 09/11/1439 AH, which is the assessment on which Primary Department relied in dismissing Zakat Payer's Case in form. Since Zakat Payer's objection was filed within the statutory period for objection that commences as of the day next to assessment notification. Since this Department found that Zakat Payer was not notified of assessment on 09/11/1439 AH. Since the Department did not find any requirement for correction or further response based ZATCA submissions before this Department. Therefore, this Department overturns the Decision rendered by the Second Department for Determination of Income Tax Disputes and Violations in Riyadh and remands the Case for reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Company), C.R. No. (…), TIN (…), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISZR-2020-85) rendered in Case No. (Z-6002-2019) regarding tax assessment for 2017.

Second: On Merits:

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Overturn the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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

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Keywords
Zakat - Accounts - Lack of Fine Notification - Failure to Notify Zakat Payer of Assessment - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department Decision No. (IFR-2020-151) regarding zakat assessment for 2013 and 2014. Zakat Payer's appeal involves claim that Zakat Payer was only informed of assessment Decision, subject matter of the Case, after approaching ZATCA Headquarters. Since Primary Department did not discuss Zakat Payer's excuses as a reason for delay in filing its objection to zakat assessment within the statutory period to determine whether these excuses were valid. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider appeal filed on ../../... AH, corresponding to ../../... AD, by ..., holder of National ID No. (...), in his capacity as Owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-151) rendered in Case No. (Z-11366-2020) regarding zakat assessment for 2013 and 2014 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case filed by Plaintiff (...), TIN (...), against Defendant (ZATCA) for failure to file an objection to Defendant's Decision, subject matter of the Case, within the statutory period.

Since Zakat Payer (... Enterprise) was dissatisfied with this Decision, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming that having reviewed e-mails and SMS sent by ZATCA, Zakat Payer did not find any notification of the fine. In addition, Zakat Payer asserts that its only became aware of the fine when approaching ZATCA to renew the certificate, at which point the objection period had already expired. Zakat Payer requests that ZATCA provide proof of notification through any methods they claim to have used. Therefore, Zakat Payer requests overturning Primary Department's Decision, subject matter of appeal, and reconsidering the Case on merits for the aforementioned reasons.

On … dated../../.. AH corresponding to ../../..., the Department decided holding remote litigation session for (10) days. Therefore, ZATCA submitted an answer wherein replies to

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Zakat Payer's appeal, by reiterating its previous position presented before Primary Department. In addition, Primary Department's Decision was rendered in accordance with Paragraph (1) of Article (22) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH and Articles (2) and (3) of Tax Dispute and Violation Committee Procedures. Furthermore, ZATCA requests the Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Since Zakat Payer's appeal involves claim that Zakat Payer was only informed of assessment Decision, subject matter of the Case, after approaching ZATCA Headquarters. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of dispute, since Zakat Payer argues failure to be informed of ZATCA assessment only when approaching ZATCA Headquarters. Therefore, Zakat Payer did not take advantage of statutory period for objection before ZATCA due to failure to know its Decision before approaching ZATCA Headquarters. Since Primary Department did not discuss Zakat Payer's excuses as a reason for delay in filing its objection to zakat assessment within the statutory period to determine whether these excuses were valid. Since ZATCA did not provide evidence on notifying Zakat Payer of its assessment Decision on .. /.. /... Since doubt in such circumstances should be interpreted in favor of Zakat Payer. Therefore, this Department overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remands the Case for reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (IFR-2020-151) rendered in Case No. (Z-11366-2020) regarding zakat assessment for 2013 and 2014.

Second: On Merits: Accept Zakat Payer's appeal, overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.

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

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Keywords
Zakat - Accounts - Failure to Provide Zakat Payer with Session Link - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IFR-2020-195) regarding zakat assessment for 2017. Zakat Payer's appeal involves failure to be provided with the link of hearing session before Primary Department by the General Secretariat of Zakat, Tax and Customs Committees. Having taken cognizance of subject matter of the dispute and Case file, since Primary Department decided dismissing the Case due to failure of Zakat Payer's attorney to appear despite of being served. Having taken cognizance of Documents included in appeal file, it turns out that Zakat Payer addressed the General Secretariat of Zakat, Tax and Customs Committees via e-mail to ask for sending the link of hearing session before Primary Department so as to be able to attend such session. Since it was not proven that the link was sent to Zakat Payer. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider appeal filed on ../../... AH, corresponding to ../../... AD, by …, holder of National ID No (...), in his capacity as Appellant Company's attorney under POA No.(…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-195) rendered in Case No. (Z-8382-2019) regarding zakat assessment for 2017 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case filed by Plaintiff (... Company), TIN (...), against Defendant (ZATCA).

Dissatisfied with this Decision, Zakat Payer (… Company) submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision, subject matter of appeal, claiming that Zakat Payer was informed of session date, but no link was sent. In addition, Zakat Payer requested the General Secretariat to provide the link before the session, but the General Secretariat did not provide such link. Thereupon, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal for the aforementioned reasons.

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On ....., dated... /.. /...., corresponding to... /.. /..., the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.
On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.
On Merits: Since Zakat Payer's appeal involves failure to be provided with the link of hearing session before Primary Department by the General Secretariat of Zakat, Tax and Customs Committees. Having taken cognizance of subject matter of the dispute and Case file, since Primary Department decided dismissing the Case due to failure of Zakat Payer's attorney to appear despite of being served. Having taken cognizance of Documents included in appeal file, it turns out that Zakat Payer addressed the General Secretariat of Zakat, Tax and Customs Committees to provide the link of hearing session before Primary Department so as to be able to attend such session. Since it was not proven that the link was sent to Zakat Payer. In addition, it was not proven that Zakat Payer was given an opportunity, in addition to ensuring that Zakat Payer could attend the hearing session. Thereupon, Primary Department's Decision was invalid. Therefore, this Department overturns Primary Department's Decision and remands the Case for reconsideration after ensuring that Zakat Payer can attend the hearing session.
In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer (... Company), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (IFR-2020-195) rendered in Case No. (Z-8382-2019) regarding zakat assessment for 2017.
Second: On Merits:
Accept Zakat Payer's appeal, overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.
May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.

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Keywords
Zakat - Accounts - Failure to Send Session Date Link - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IFR-2020-148) regarding zakat assessment for 1439. Zakat Payer's appeal involves failure to attend the hearing session before Primary Department for a reason attributed to failure to send the link of hearing session to its correct e-mail by the General Secretariat of Zakat, Tax and Customs Committees. Having taken cognizance of Primary Department's Decision, it turns out that Zakat Payer did not attend the hearing session before Primary Department. Therefore, the Department accepts the appeal and remands the Case.

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider appeal filed on ../../... AH, corresponding to ../../... AD, by …, holder of National ID No (...), in his capacity as Owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-148) rendered in Case No. (Z-11254-2020) regarding zakat assessment for 1439 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case filed by Plaintiff (...), TIN (...), against Defendant (ZATCA) for failure to file an objection to Defendant's Decision within the statutory period.

Since Zakat Payer (... Enterprise) was dissatisfied with this Decision, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming failure to be provided with session link, and that the Decision was rendered *in presentia*. Therefore, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal for the aforementioned reasons.

On … dated../../.. AH corresponding to ../../..., the Department decided holding remote litigation session for (10) days. Therefore, ZATCA submitted an answer wherein replies to Zakat Payer's appeal, by reiterating its previous position presented before Primary Department. In addition, Primary Department's Decision was rendered in accordance with Paragraph (1) of Article (22) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH and Article (3) of Tax Dispute and Violation Committee Procedures. Moreover, Zakat Payer's arguments do not differ from what previously submitted, to which ZATCA has already answered at that time. Furthermore, ZATCA

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requests the Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Since Zakat Payer's appeal involves failure to attend the hearing session before Primary Department for a reason attributed to failure to send the link of hearing session to its correct e-mail by the General Secretariat of Zakat, Tax and Customs Committees. On the other hand, ZATCA requested dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of Zakat Payer's appeal and Primary Department's Decision, the Department found that Zakat Payer did not attend the hearing session before Primary Department. Since Zakat Payer claimed failure to be provided with link of hearing session via its correct e-mail. Since the appealed Decision does not indicate that Zakat Payer was given an opportunity to submit its Documents regarding ZATCA argument in form, it turns out that the Case is not ripe for adjudication due to Zakat Payer's failure to attend the hearing session before Primary Department and lack of a written objection to reply to ZATCA argument raised before Primary Department. Thereupon, the Department overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remands the Case for reconsideration.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (IFR-2020-148) rendered in Case No. (Z-11254-2020) regarding zakat assessment for 1439.

Second: On Merits:

Accept Zakat Payer's appeal, overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration according to the reasons and Grounds stated herein.

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

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Decision No. IR-2022-90
Case No. Z-30294-2020

Keywords
Zakat - Accounts - Failure to Send Session Date Link - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (Z-4979-2020) regarding zakat assessment for 1440. Zakat Payer's appeal involves failure to attend the hearing session before Primary Department for a reason attributed to failure to send the link of hearing session by the General Secretariat of Zakat, Tax and Customs Committees. Having taken cognizance of Zakat Payer's appeal and Primary Department's Decision, it turns out that Zakat Payer did not attend the hearing session before Primary Department. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider appeal filed on ../../... AH, corresponding to ../../... AD, by ..., in his capacity as Owner of Appellant Enterprise, against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-201) rendered in Case No. (Z-4979-2020) regarding zakat assessment for 1440 filed by Appellant against ZATCA. Primary Department's Decision states:
Accept the Case in form filed by Plaintiff (...), owner of (... Enterprise), C.R. No. (...), and dismiss it on merits.
Since Zakat Payer (... Enterprise) was dissatisfied with this Decision, Zakat Payer submitted a statement of appeal summarized as follows:
Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming failure to be provided with session link, and that the Decision was rendered *in presentia*. Therefore, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal for the aforementioned reasons.
Since the Department decided opening of pleadings, ZATCA submitted an answer dated 15/11/1442 AH corresponding to 24/06/2021 AD wherein replies to Zakat Payer's appeal, claiming that it made estimated zakat assessment in accordance with Clause (Fifth) of Article (13) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH, Paragraph (A) and Paragraph (B) of Clause (Sixth) of the same article and Clause (Eighth) of the same article of the same Regulations. Therefore, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

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On ....., dated... /.. /....AH, corresponding to... /.. /...AD, the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.
On ....., dated... /../.. corresponding to .. /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.
On Merits: Since Zakat Payer's appeal involves failure to attend the hearing session before Primary Department for a reason attributed to failure to send the link of hearing session date by the General Secretariat of Zakat, Tax and Customs Committees. On the other hand, ZATCA requested dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of Zakat Payer's appeal and Primary Department's Decision, the Department found that Zakat Payer did not attend the hearing session before Primary Department. Since Zakat Payer claimed failure to be provided with link of hearing session. Since the appealed Decision does not indicate that Zakat Payer was given an opportunity to submit its Documents regarding ZATCA argument, it turns out that the Case is not ripe for adjudication due to Zakat Payer's failure to attend the hearing session and lack of a written objection to reply to ZATCA arguments raised before Primary Department. Thereupon, the Department overturns the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remands the Case for reconsideration on merits.
In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ Enterprise....., CR. NO. (…), TIN No (…) against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISZR-2020-201) issued regarding Case No. (Z-4979-2020) in connection with zakat assessment for 1440 AH.
Second: On Merits:
Overturn the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.
May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.

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Decision No. IR-2022-165
Case No. Z-32902-2020

Keywords
Zakat - Accounts - Expiry of Statutory Period - Unclarity of ZATCA Decision Regarding Acceptance or Rejection of Objection - Overturning Primary Department's Decision - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IZJ-2020-230) regarding zakat assessment for 1440. Zakat Payer's appeal involves failure to file an objection within the statutory period for a reason attributed to confusion resulting from receiving rejection and acceptance letters from ZATCA at the same time. The Department found that two letters were sent to Zakat Payer, one of which indicates accepting Zakat Payer's objection without specifying assessment year, while the other letter did not include an explicit statement of acceptance or rejection. Due to this apparent ambiguity and the circumstances surrounding notification sent to Zakat Payer, which justify Zakat Payer's belief that ZATCA had accepted the objection, the Department concludes that such belief is reasonable based on Facts of the Case. Therefore, the Department concludes that Zakat Payer is entitled to file the Case upon becoming aware of ZATCA rejection of its objection. Therefore, the Department accepts Zakat Payer's appeal and remands the Case for reconsideration on merits.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider appeal filed on ../../... AH, corresponding to ../../... AD, by ..., holder of National ID No.(…), in his capacity as Owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No.(IZJ-2020-230) rendered in Case No. (Z-12631-2020) regarding zakat assessment for 1440 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case in form filed by Plaintiff (... Enterprise), C.R. No. (…).

Dissatisfied with this Decision, Zakat Payer (... Enterprise) submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming that ZATCA sent objection acceptance letter and objection rejection letter on the same date. In addition, the reason for delay in filing objection to ZATCA was due to receiving a letter of acceptance, which made Zakat Payer to believe that it included both objections.

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Therefore, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal and reconsidering the Case on merits for the aforementioned reasons.
On … dated../../.. AH corresponding to ../../..., the Department decided holding remote litigation session for (10) days. Therefore, ZATCA submitted an answer wherein replies to Zakat Payer's appeal, stating that Primary Department's Decision shall be conclusive due to the fact that the claimed amount exceeds SAR 50,000 in accordance with Paragraph (1) of Article (42) of Tax Dispute and Violation Committee Procedures. Therefore, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.
On … dated../../.. AH corresponding to ../../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.
On Merits: Zakat Payer's appeal involves claim that Zakat Payer did not file an objection within the statutory period for a reason attributed to confusion resulting from receiving rejection and acceptance letters from ZATCA at the same time. On the other hand, ZATCA requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of Zakat Payer's appeal, Documents included in Case file and ZATCA letters regarding response to Zakat Payer's objection, the Department found that two letters were sent to Zakat Payer, one of which indicates accepting Zakat Payer's objection without specifying assessment year, while the other letter did not include an explicit statement of acceptance or rejection. Due to this apparent ambiguity and the circumstances surrounding notification sent to Zakat Payer, which justify Zakat Payer's belief that ZATCA had accepted the objection, the Department concludes that such belief is reasonable based on Facts of the Case. Thereupon, the Department concludes that Zakat Payer is entitled to file the Case upon becoming aware of ZATCA rejection of its objection. Therefore, this Department overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah and remands the Case for reconsideration on merits.
In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No (IZJ-2020-230) rendered in Case No. (Z-12631-2020) regarding tax assessment for 1440 AH.
Second: On Merits:
Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.
May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.

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Decision No. IR-2022-21
Case No. Z-31452-2020

Keywords
Zakat - Accounts - Expiry of Statutory Period - Coronavirus Pandemic - Overturning Primary Department's Decision - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IZD-2020-221) regarding zakat assessment for 1440. Zakat Payer's appeal involves failure to file an objection to ZATCA assessment within the statutory period for a reason attributed to unforeseen circumstances due to Coronavirus Pandemic. Since Coronavirus Pandemic is considered an exceptional and unprecedented event, as an unforeseen public emergency that result in general precautions, including curfews and restrictions on movement and travel between cities and districts in certain areas. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

To consider appeal filed on ../../... corresponding to ../../... by ..., holder of National ID No. (...), in his capacity as Owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-221) rendered in Case No. (Z-15057-2020) regarding zakat assessment for 1440 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case in form filed by Plaintiff (... Enterprise) due to expiry of statutory period for objection.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming that the reason for failing to file an objection within the statutory period was that the responsible employee at the Enterprise fell ill and was unable to perform his duties for nearly two months. Subsequently, the Enterprise was affected by Coronavirus Pandemic, which resulted in its closure due to the enforced protocols. Therefore, Zakat Payer requests overturning Primary Department's Decision for the aforementioned reasons.

On ..., ../../... corresponding to ../../..., the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On ... dated../../.. AH corresponding to ../../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file,

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the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Having taken cognizance of Case file, the Department found that Zakat Payer's appeal involves failure to file an objection to ZATCA assessment within the statutory period for a reason attributed to unforeseen circumstances due to Coronavirus Pandemic. Having taken cognizance of subject matter of the dispute, the Department found that Coronavirus Pandemic is an extraordinary and unprecedented event, as an unexpected public emergency that imposed general precautions, including curfews and restrictions on movement and travel between cities and districts in some areas. In addition, there was a suspension of attendance at government offices, which resulted in shutdown of many accounting and law firms specialized in filing appeals against judicial Decisions related to zakat and tax on behalf of taxpayers. The effects of this Pandemic are external factors beyond Zakat Payer's control, making it impossible to predict or prevent them. Accordingly, the delay in filing Case before Primary Department cannot be attributed to Zakat Payer's negligence or failure. Since relieving the harm caused by missing opportunity to object to ZATCA Decision due to a public pandemic aligns with the principle that no person should be burdened with what is beyond his capacity or is difficult to achieve due to reasons unrelated to Zakat Payer. Therefore, the Department decided to overturn Primary Department's Decision and remand the Case for reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No (IZD-2020-221) rendered in Case No. (Z-15057-2020) regarding tax assessment for 1440.

Second: On Merits: Overturn the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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

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Keywords
Zakat - Accounts - Expiry of Statutory Period - Coronavirus Pandemic - Overturning Primary Department's Decision - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (ITR-2021-871) regarding zakat assessment for 2015. Zakat Payer's appeal involves the claim of failure to file an objection before Primary Department within the statutory period for a reason attributed to coincidence of statutory period for objection with Coronavirus Pandemic. Since the Department found that ZATCA assessment letter did not meet the formal requirements stipulated by the law, as such assessment did not include reasons for amendment regarding (Suppliers) item and (Other Accounts Payable) item, as ZATCA should state the reasons for amendment, so that Zakat Payer can accept or object to ZATCA amendment. Since the matter was no as stated regarding all items for which ZATCA issued amended assessment, and that reasoning is one of Zakat Payer's rights; therefore, this Department concludes that ZATCA assessment is marred by a defect in form. This is not affected by the provisions set by legislator, which make ZATCA assessment Decision unappealable by lapse of statutory period for objection, as this matter applies when the Decision is valid and meets formal requirements stipulated by the law. Therefore, the Department accepts the appeal in form and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider appeal filed on ../../.. corresponding to ../../... by ..., holder of National ID No. (...), in his capacity as the legal representative of Appellant Company, against Third Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ITR-2021-871) rendered in Case No. (Z-36081-2021) regarding zakat assessment for 2015 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case filed by Plaintiff (... Company), C.R. No. (...), against Defendant (ZATCA) due to dismissing objection in form.

Since Zakat Payer (... Company) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming failure to file an objection before Primary Committee within the statutory period due to coincidence of Coronavirus, which disrupted all activities, with the statutory period for

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objection. Therefore, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal and considering the Case on merits for the aforementioned reasons.

On … dated../../.. AH corresponding to ../../... , the Department decided holding remote litigation session for (10) days. Therefore, ZATCA submitted an answer wherein replies to Zakat Payer's appeal, by reiterating its previous position presented before Primary Department. In addition, Zakat Payer did not file an objection before Primary Department within the statutory period. Therefore, ZATCA Decision becomes unappealable by lapse of time-limit in accordance with Paragraph (2) of Article (3) of Tax Dispute and Violation Committee Procedures. Furthermore, ZATCA requests the Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On … dated../../.. AH corresponding to ../../…, having taken cognizance of Zakat Payer's appeal, the Department asked Zakat Payer to provide any relevant information regarding the reason for delay in filing objection to Primary Department within (7) days from that date.

On … dated../../.. AH corresponding to ../../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Zakat Payer's appeal involves claim that Zakat Payer did not file an objection before Primary Committee within the statutory period for a reason attributed to coincidence of the statutory period with Coronavirus Pandemic. On the other hand, ZATCA requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of Zakat Payer's appeal for 2015, Documents included in Case file and ZATCA assessment letter, the Department found that ZATCA assessment letter did not meet the formal requirements stipulated by the law, as such assessment did not include reasons for amendment regarding (Suppliers) item and (Other Accounts Payable) item, so that Zakat Payer can file a reasoned objection, as ZATCA should state the reasons for amendment, so that Zakat Payer can accept or object to ZATCA amendment. Since the matter was no as stated regarding all items for which ZATCA issued amended assessment, and that reasoning is one of Zakat Payer's rights; therefore, this Department concludes that ZATCA assessment is marred by a defect in form. This is not affected by the provisions set by legislator, which make ZATCA assessment Decision unappealable by lapse of statutory period for objection, as this matter applies when the Decision is valid and meets formal requirements stipulated by the law. Therefore, this Department overturns the Decision rendered by the Third Department for Determination of Income Tax Violations and Disputes in Riyadh and remands the Case for reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

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Decision

First: Accept appeal in form filed by Zakat Payer (... Company), C.R. No. (…), TIN (…), against Third Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ITR-2021-871) rendered in Case No. (Z-36081-2021) regarding zakat assessment for 2015.

Second: On Merits:

Overturn the Decision rendered by the Third Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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

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Keywords
Zakat - Accounts - Expiry of Statutory Period - Filing Objection by Hand - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (Z-10043-2019) regarding zakat assessment for 2015 and 2016. Zakat Payer's appeal involves objection to dismissing its Case in form by Primary Department. Zakat Payer claims filing objection within the statutory period by hand, but ZATCA rejected such objection. Having taken cognizance of ZATCA letter, the Department found that ZATCA asked for additional information from Zakat Payer after making assessment, instead of rejecting objection on procedural Grounds due to expiry of statutory period. This creates a presumption that Zakat Payer, in fact, filed the objection by hand within the statutory period. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

To consider appeal filed on ../../... corresponding to ../../... by …, holder of National ID No (...), in his capacity as Appellant Company's attorney under POA issued from Dubai Courts in the UAE and authenticated by the Ministry of Justice and Ministry of Foreign Affairs in the Kingdom of Saudi Arabia, against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-70) rendered in Case No. (Z-10043-2019) regarding zakat assessment for 2015 and 2016 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case in form filed by Plaintiff (... Company), C.R. No. (...) for being filed after expiry of the statutory period.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming that the Decision relied solely on the interpretation of the Facts and their alignment with provision of Paragraph (1) of Article (3) of Tax Dispute and Violation Committee Procedures, without considering other reasons. Zakat Payer asserts that the objection was filed by hand within the statutory period to ZATCA Decision, but ZATCA refused to receive such objection because it lacked attachments. Thereupon, ZATCA asked Zakat Payer to obtain a detailed statement of the number, durations and amounts of loans from

all banks from which Zakat Payer had borrowed, and Zakat Payer was willing to comply. After completing ZATCA request, which took considerable time due to the long-term process of obtaining such information from the banks, the objection was filed on ../../… After reviewing objection, ZATCA, through a letter dated ../../…, asked to be provided with some Documents related to the objection. In addition, ZATCA, referred in the letter to Zakat Payer's objection, including its date and content (Kindly see a copy of ZATCA letter). ZATCA did not mention or address any rejection of the objection in the letter, which serves as clear evidence that the statutory period for objection was interrupted and confirms that ZATCA accepted the objection and began to consider it on merits. The objection should have been rejected by ZATCA before making any requests; otherwise, the right to dismiss it would be forfeited. Therefore, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal for the aforementioned reasons.
Since the Department decided opening of pleadings, ZATCA submitted an answer dated 26/02/1442 AH corresponding to 13/10/2020 AD wherein replies to Zakat Payer's appeal, by requesting the Department to ensure that Zakat Payer has paid or provided the financial guarantee stipulated in Paragraph (3.D) of Article (23) of the Implementing Regulations for the Collection of Zakat. In addition, ZATCA reiterates its previous position stated in the answer submitted to Primary Department, arguing that Zakat Payer's claims are unsubstantiated, asserting that there is no evidence that ZATCA refused to receive Zakat Payer's objection. Therefore, ZATCA insists on accuracy and correctness of its procedure and requests upholding Primary Department's Decision for the aforementioned reasons.
On ....., dated... /.. /...., corresponding to... /.. /..., the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.
On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.
On Merits: Having taken cognizance of Case file, the Department found that Zakat Payer's appeal involves there is no ground for dismissing its Case in form by Primary Department, as Zakat Payer claims that the objection was filed within the statutory period by hand, but it was ejected by ZATCA. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute and Documents included in Case file, the Department found that Zakat Payer claimed to have submitted an objection by hand to ZATCA within the statutory period. However, ZATCA did not accept the objection due to the lack of its attachments. Since Zakat Payer has provided evidence on correspondences between Zakat Payer and ZATCA regarding the completion of some Documents related to its objection, including ZATCA letter dated .. /../…, wherein ZATCA asked Zakat Payer to complete the supporting Documents for its objection. Since ZATCA asked Zakat Payer, after its assessment, to provide additional information, instead of rejecting objection on procedural Grounds due to expiry of statutory period. This creates a presumption that Zakat Payer, in fact, filed the

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objection by hand within the statutory period. Since these circumstances surround objection filing before ZATCA, this Department accepts Zakat Payer's appeal against Primary Department's Decision that dismissed its Case in form. Therefore, the Department remands the Case to Primary Department for reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Company), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-70-2020) rendered in Case No. (Z-10043-2019) regarding zakat assessment for 2015 and 2016.

Second: On Merits: Accept Zakat Payer's appeal, overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.

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

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-47
Case No. Z-26294-2020

Keywords
Zakat - Accounts - Expiry of Statutory Period - Ignorance of New Zakat Regulation - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (ISZR-2020-112) regarding zakat assessment for 1437 AH. Zakat Payer's appeal involves failure to file an objection within the statutory period for a reason attributed to ignorance of new zakat regulations. Appellate Department found that ZATCA assessment included in Case file did not meet the formal requirements, including reasons for amendment and Zakat Payer's right to objection within the statutory period for objection. Thereupon, ZATCA amended assessment is marred by a defect in form. Therefore, the Department overturns Primary Department's Decision and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider appeal filed on ../../... corresponding to ../../... by ..., holder of National ID No. (...), in his capacity as Owner of Appellant Enterprise, against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-112) rendered in Case No. (Z-5358-2020) regarding zakat assessment for 1437 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case in form filed by Plaintiff (…), holder of National ID No. (...), C.R. No. (...), on the ground of being filed after expiry of statutory period.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, requesting the Department to consider its objection on merits. Zakat Payer attributes expiry of statutory period that resulted in dismissing the Case in form to the novelty of zakat regulations and lack of awareness and understanding of recent developments. Therefore, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal for the aforementioned reasons.

Since the Department decided opening of pleadings, ZATCA submitted an answer dated 09/03/1442 AH corresponding to 25/10/2020 AD wherein replies to Zakat Payer's appeal. Zakat Payer argues that in accordance with Paragraph (1) of Article (22) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH, Paragraph (4.A) of the same article and Article (2) of Tax Dispute and Violation Committee Procedures,

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and since the interval between assessment date and objection date is more than sixty days. Thereupon, by expiry of statutory period for objection, the appealed Decision becomes unappealable. Therefore, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On … dated../../.. AH corresponding to ../../..., the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On … dated../../.. AH corresponding to .. /../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Zakat Payer's appeal involves claim that Zakat Payer failed to file an objection within the statutory period for a reason attributed to ignorance of novelty of zakat regulations. On the other hand, ZATCA requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of appealed Decision and its reasoning, it turns out that the appealed Decision involves Zakat Payer's request to overturn Primary Department's Decision that dismissed the Case in form due to expiry of statutory period for objection before ZATCA. Since it was not proven before this Department that Zakat Payer received zakat assessment in issuance date, which is the date on which the appealed Decision relied in calculating period. Since ZATCA assessment attached in Case file did not meet the formal requirements, including reasons for amendment, right to objection and statutory period for objection. Therefore, ZATCA amended assessment is marred by a defect. This is not affected by the provisions set by legislator, which make ZATCA assessment Decision unappealable by lapse of statutory period for objection, as this matter applies when the Decision is valid and meets formal requirements stipulated by the law. Therefore, this Department accepts Zakat Payer's appeal and overturns the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remands the Case for reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ Enterprise....., CR. NO. (…), TIN No (…) against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISZR-2020-112) issued regarding Case No. (Z-5358-2020) in connection with zakat assessment for 1437.

Second: On Merits:

Overturn the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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

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Keywords
Zakat - Accounts - Expiry of Statutory Period - Malfunction with the Website - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (Z-13984-2020) regarding zakat assessment for 2018. Zakat Payer's appeal involves failure to file an objection within the statutory period for a reason attributed to a malfunction with the website of the General Secretariat of Zakat, Tax and Customs Committees. Having taken cognizance of Primary Department's Decision, the Department found that Zakat Payer did not attend the hearing session. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

To consider appeal filed on ../../.. corresponding to ../../... by ..., holder of National ID No. (...), in his capacity as the legal representative of Appellant Company, under its memorandum of association, against Third Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ITR-2021-50) rendered in Case No. (Z-13984-2020) regarding zakat assessment for 2018 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case in form filed by Plaintiff (... Company), C.R. No. (...), on the ground of expiry of statutory period.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

Zakat Payer appeals against Primary Department's Decision subject matter of appeal, claiming that provisions of Tax Dispute and Violation Committee Procedures shall not apply to an incident occurred before the rules were issued. In addition, within the sixty-day period specified for filing an objection, Zakat Payer attempted to file an objection via the e-portal of the General Secretariat of Zakat, Tax and Customs Committees, but Zakat Payer failed to do so due to a malfunction that prevented filing objection within the statutory period. Therefore, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal for the aforementioned reasons.

On ....., dated... /.. /...., corresponding to... /.. /..., the Department decided holding remote litigation session for (10) days. Therefore, Zakat Payer submitted a number of

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Documents that did not present any new arguments beyond what had already been submitted.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Since Zakat Payer's appeal involves failure to file an objection within the statutory period due to a reason attributed to a malfunction with the website of the General Secretariat of Zakat, Tax and Customs Committees. Having taken cognizance of Primary Department's Decision, the Department found that Zakat Payer did not attend the hearing session. Zakat Payer argued before this Department that there are technological difficulties prevented Zakat Payer from filing its objection to Primary Department within the statutory period. In addition, the Department noted that the Decision subject matter of appeal did not give Zakat Payer an opportunity to present arguments regarding the plea in form raised by ZATCA. Moreover, Primary Department did not consider accuracy and correctness of ZATCA assessment letter to ensure that it meets the formal requirements stipulated by law. After reviewing this letter, the Department found that such letter did not include reasons for amendment to the contested item whereby Zakat Payer can file a reasoned objection, as ZATCA should state the reasons for amendment, so that Zakat Payer can accept or object to ZATCA amendment. Thereupon, it turns out that the Case is not ripe for adjudication in light of Zakat Payer's failure to attend the hearing session before the Primary Department or file a written objection to respond to ZATCA plea raised before Primary Department. Therefore, this Department accepts Zakat Payer's appeal and overturns the Decision rendered by the Third Department for Determination of Income Tax Violations and Disputes in Riyadh and remands the Case for reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Company), C.R. No. (…), TIN (…), against Third Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ITR-2021-50) rendered in Case No. (Z-13984-2020) regarding zakat assessment for 2018.

Second: On Merits:

Accept Zakat Payer's appeal, overturn the Decision rendered by the Third Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.

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

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Keywords
Zakat - Accounts - Expiry of Statutory Period - Malfunction with Internet - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (Z-8511-2019) regarding zakat assessment for 2017. Zakat Payer's appeal involves failure to file an objection within the statutory period due to a reason attributed to a malfunction with internet services in the country where employee responsible for zakat accounts was staying outside the Kingdom at the time of assessment. Having taken cognizance of ZATCA assessment letter, the Department found that assessment letter did not meet one of the formal requirements stipulated by the law, as such assessment did not include reasons for amendment to the contested items. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider appeal filed on ../../... corresponding to ../../... by …, holder of National ID No (...), in his capacity as Appellant Company's attorney under POA No.(…), against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2021-11) rendered in Case No. (Z-8511-2019) regarding zakat assessment for 2017 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case in form filed by Plaintiff (... Company), C.R. No. (...).

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

Zakat Payer appeals against Primary Department's Decision subject matter of appeal, claiming that due to travel of Company's Accounting and Zakat Officer outside the Kingdom at the time of assessment and malfunction with internet services in the country where the employee was located, Zakat Payer failed to file an objection within the statutory period. In addition, Zakat Payer emphasizes that zakat is a pillar of Islam and a religious obligation that does not lapse over time. Therefore, Zakat Payer requests overturning Primary Department's subject matter of appeal for the aforementioned reasons.

On ....., dated... /.. /...., corresponding to... /.. /..., the Department decided holding remote litigation session for (10) days. Therefore, Zakat Payer submitted a number of

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Documents that did not present any new arguments beyond what had already been submitted.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Since Zakat Payer involves failure to file an objection within the statutory period for a reason attributed to a malfunction with internet services in the country where Zakat Account Officer was staying outside the Kingdom when the assessment was issued. Having taken cognizance of Zakat Payer's appeal, Documents included in Case file and ZATCA assessment letter, the Department found that such letter did not meet one of the formal requirements stipulated by the law, as such assessment did not include reasons for amendment to the contested items whereby Zakat Payer can file a reasoned objection, as ZATCA should state the reasons for amendment, so that Zakat Payer can accept or object to ZATCA amendment. Since the matter was not as stated; therefore, this Department concludes that ZATCA assessment is marred by a defect in form. Accordingly, the assessment loses its validity as a correct administrative Decision. This is not affected by the provisions set by legislator, which make ZATCA assessment Decision unappealable by lapse of statutory period for objection, as this matter applies when the Decision is valid and meets the requirements stipulated by the law. Therefore, this Department overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remands the Case for reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Company), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No (IZD-2021-11) rendered in Case No. (Z-8511-2019) regarding zakat assessment for 2017.

Second: On Merits:

Accept Zakat Payer's appeal, overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.

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Keywords
Zakat - Accounts - Expiry of Statutory Period - Malfunction with Website - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IFR-2021-28) regarding zakat assessment for 2015. Zakat Payer's appeal involves failure to file an objection before Primary Department within the statutory period for a reason attributed to a malfunction with the website of the General Secretariat of Zakat, Tax and Customs Committees. Having taken cognizance of subject matter of the dispute, the Department found that Primary Department dismissed Zakat Payer's objection in form due to failure to file an objection to ZATCA assessment before Primary Department within the statutory period in accordance with Tax Dispute and Violation Committee Procedure. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider appeal filed on ../../... corresponding to ../../... by ..., holder of National ID No. (...), in his capacity as the legal representative of Appellant Company, under its memorandum of association, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-28) rendered in Case No. (Z-19900-2020) regarding zakat assessment for 2015 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case filed by Plaintiff (...), TIN (...), against Defendant (ZATCA) for failure to file grievance case before Primary Department against Defendant's Decision subject matter of the Case within the statutory period.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming that Zakat Payer attempted to file its grievance within the statutory period, but there was a technological problem with the website of the General Secretariat of Zakat, Tax and Customs Committees. In addition, Zakat Payer stated that during the hearing session before Primary Department, Zakat Payer was not given sufficient opportunity to present the sequence of events related to its Case. Therefore, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal for the aforementioned reasons.

On …, ../../... corresponding to ../../..., the Department decided holding remote litigation session for (10) days. Therefore, ZATCA submitted an answer wherein replies to Zakat Payer's appeal, by reiterating its previous position presented before Primary Department. Zakat Payer argues that in accordance with Paragraph (2) of Article (40) of Tax Dispute and Violation Committee Procedures, and since the interval between Decision receipt date and appeal date is more than thirty days. Thereupon, by expiry of statutory period for objection, the appealed Decision becomes final and enforceable. In addition, ZATCA insists on Primary Department's Decision that aligns with provisions of Paragraph (2) of Article (3) of Tax Dispute and Violation Committee Procedures and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On ....., dated... /.. /...., corresponding to... /.. /..., Zakat Payer argued that there were technological problems that prevented presenting its position before Primary Department. Since there was no response from Zakat Payer to Department's request included in the transcript dated (07/03/1443 AH), the Department asked the General Secretariat to contact Zakat Payer by phone to verify its receipt of the previous transcript of this Case through the e-portal of the General Secretariat.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Since Zakat Payer's appeal involves failure to file an objection before Primary Department within the statutory period for a reason attributed to a malfunction with the website of the General Secretariat of Zakat, Tax and Customs Committees. On the other hand, ZATCA requested dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute, the Department found that Primary Department dismissed Zakat Payer's objection in form due to failure to file an objection to ZATCA assessment before Primary Department within the statutory period in accordance with Tax Dispute and Violation Committee Procedures. In addition, the Department found that ZATCA rejected Zakat Payer's objection on 08/12/2019 AD. Since this date precedes the effective date of Tax Dispute and Violation Committee Procedures, which is 03/01/2020 AD. Moreover, Zakat Payer claimed that there were technological problems prevented Zakat Payer from presenting their case before the Department. Since ZATCA Decision date and the surrounding circumstances during the transitional period for Tax Dispute and Violation Committee Procedures, it turns out that Zakat Payer failed to present its case through the e-portal of the General Secretariat of Tax, Zakat and Customs Committees. To ensure Zakat Payer's right to two levels of litigation, this Department overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remands the Case for reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

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First: Accept appeal in form filed by Zakat Payer (... Company), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (IFR-2021-28) rendered in Case No. (Z-19900-2020) regarding zakat assessment for 2015.

Second: On Merits:

Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-92
Case No. Z-30763-2020

Keywords

Zakat - Accounts - Expiry of Statutory Period - Incorrect Session Link - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IFR-2020-163) regarding zakat assessment for 1439. Zakat Payer claims that the session link sent to Zakat Payer is incorrect, and that Zakat Payer could not attend the session. Having taken cognizance of Primary Department's Decision, the Department found that Zakat Payer did not attend the hearing session before Primary Department. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider appeal filed on ../../... corresponding to ../../... by ..., holder of National ID No. (...), in his capacity as Owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-163) rendered in Case No. (Z-12984-2020) regarding zakat assessment for 1439 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case filed by Plaintiff (...), TIN (...), against Defendant (ZATCA) for failure to file an objection to Defendant's Decision subject matter of the Case within the statutory period.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming that the link sent to Zakat Payer is incorrect and Zakat Payer failed to attend the session. In addition, Zakat Payer claims that the Decision was rendered *in presentia*. Therefore, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal and considering its Case on merits for the aforementioned reasons.

On … dated../../.. AH corresponding to ../../..., the Department decided holding remote litigation session for (10) days. Therefore, ZATCA submitted an answer wherein replies to Zakat Payer's appeal, by reiterating its previous position presented before Primary Department. In addition, Primary Department's Decision was rendered in accordance with Paragraph (1) of Article (22) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH and Article (2) and Article (3) of Tax Dispute and Violation Committee Procedures. Moreover, Zakat Payer's arguments do not differ from what previously submitted, to which ZATCA has already answered at that time. Furthermore,

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ZATCA requests the Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Since Zakat Payer's appeal involves failure to attend the hearing session before Primary Department for a reason attributed to a malfunction with the link send to Zakat Payer by the General Secretariat of Zakat, Tax and Customs Committees. On the other hand, ZATCA requested dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of Zakat Payer's appeal and Primary Department's Decision, the Department found that Zakat Payer did not attend the hearing session before Primary Department. Since Zakat Payer claimed that there was a malfunction with the link of hearing session before Primary Department, resulting in Zakat Payer's failure to attend such session. Since the appealed Decision does not indicate that Zakat Payer was given an opportunity to submit its Documents regarding ZATCA argument in form, it turns out that the Case is not ripe for adjudication due to Zakat Payer's failure to attend the hearing session before Primary Department and file a written objection to reply to ZATCA argument raised before Primary Department. Thereupon, the Department overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remands the Case for reconsideration after ensuring that Zakat Payer can attend the hearing session before Primary Department.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (IFR-2020-163) rendered in Case No. (Z-12984-2020) regarding zakat assessment for 1439.

Second: On Merits: Accept Zakat Payer's appeal, overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration according to the reasons and Grounds stated herein.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-145
Case No. Z-31977-2020

Keywords
Zakat - Accounts - Expiry of Statutory Period - Malfunction with Website - Overturning Primary Department's Decision - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (ISR-2020-204) regarding zakat assessment for 2014. Zakat Payer's appeal involves failure to file an objection within the statutory period for a reason attributed to a malfunction with ZATCA website that prevented the same. Appellate Department found that Zakat Payer's arguments regarding failure to file an objection within the statutory period were not discussed, since Zakat Payer submitted a set of evidence supporting its claim that Zakat Payer was unable to file an objection to ZATCA assessment letter within the statutory period. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider appeal filed on ../../... corresponding to ../../... by …, holder of National ID No (...), in his capacity as Appellant Company's attorney under POA No.(…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2020-204) rendered in Case No. (Z-8108-2019) regarding zakat assessment for 2014 filed by Appellant against ZATCA. Primary Department's Decision states:
Dismiss the Case in form filed by Plaintiff (... Company), C.R. No. (...) as stated in the Grounds.
Since Zakat Payer (... Company) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:
Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming that Zakat Payer is entitled to file an objection that was rejected by ZATCA due to the fact that no business activities were performed in 2014. In addition, Company's revenues, according to the financial statements, were zero, and the final results showed losses solely from professional fees. Given that the Company was not engaged in any business activities, there were no employees available to monitor communications from ZATCA. Moreover, Zakat Payer attempted to file an objection at that time, but failed to do so due to a malfunction with ZATCA website. Therefore, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal and considering its Case on merits for the aforementioned reasons.

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On … dated../../.. AH On ../../..., the Department decided holding remote litigation session for (10) days. Therefore, ZATCA submitted an answer wherein replies to Zakat Payer's appeal, by reiterating its previous position presented before Primary Department. In addition, Zakat Payer did not file an objection before ZATCA within the statutory period. Therefore, ZATCA Decision becomes unappealable by expiry of statutory period in accordance with Paragraph (1) of Article (22) of the Implementing Regulations for the Collection of Zakat. Moreover, Zakat Payer's arguments do not differ from what previously submitted, to which ZATCA has already answered at that time. Furthermore, ZATCA requests the Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On … dated../../.. AH corresponding to ../../…, having taken cognizance of Zakat Payer's appeal, the Department asked Zakat Payer to provide evidence on its claim of being failed to receive ZATCA assessment letter, as stated in its appeal. This evidence must be submitted within (7) days from that date.

On … dated../../.. AH corresponding to ../../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Zakat Payer's appeal involves claim that Zakat Payer did not file an objection within the statutory period for a reason attributed to a malfunction with ZATCA website that prevented the same. On the other hand, ZATCA requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of Zakat Payer's appeal and the Decision subject matter of appeal, Appellate Department found that Zakat Payer's arguments regarding failure to file an objection within the statutory period were not discussed. Since Zakat Payer submitted a set of evidence supporting its claim that Zakat Payer was unable to file an objection to ZATCA assessment letter within the statutory period. As the matter was not as stated, and to ensure Zakat Payer's right to two levels of litigation, this Department overturns the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remands the Case for reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Company), C.R. No. (…), TIN (…), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISR-2020-204) rendered in Case No. (Z-8108-2019) regarding zakat assessment for 2014.

Second: On Merits:

Accept Zakat Payer's appeal, overturn the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.

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Decision No. IR-2022-155
Case No. Z-29857-2020

Keywords
Zakat - Accounts - Expiry of Statutory Period - Malfunction with Website - Overturning Primary Department's Decision - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IFR-2020-106) regarding zakat assessment for 1439. Zakat Payer's appeal involves failure to file an objection before Primary Committee within the statutory period for a reason attributed to a malfunction with the website of the General Secretariat of Zakat, Tax and Customs Committees. The Department found that Zakat Payer was informed of partial rejection of its objection and applied for registering its Case via e-mail of the General Secretariat of Zakat, Tax and Customs Committees due to failure to register the Case via the e-system. Since Zakat Payer registered its Case before this Department, it turns out that Zakat Payer registered its Case within the statutory period. Therefore, the Department accepts the appeal in form and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider appeal filed on ../../... corresponding to ../../... by ..., holder of National ID No. (...), in his capacity as attorney under POA No. (...) executed by (...), holder of National ID No (...), in his capacity as Owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-106) rendered in Case No. (Z-13446-2019) regarding zakat assessment for 1439 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case filed by Plaintiff (...), TIN (...), against Defendant (ZATCA) for failure to file grievance before Primary Department against Defendant's Decision subject matter of the Case within the statutory period.

Dissatisfied with this Decision, Zakat Payer (... Enterprise) submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming failure to file its grievance to ZATCA Decision before Primary Department within the statutory period due to a technological problem that prevented Zakat Payer to file a grievance within the statutory period. In addition, ZATCA assessment letter stated that there are (60) days for objection. Therefore, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal and considering its Case on merits for the aforementioned reasons.

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On … dated../../.. AH corresponding to ../../... , the Department decided holding remote litigation session for (10) days. Therefore, ZATCA submitted an answer wherein replies to Zakat Payer's appeal, by reiterating its previous position presented before Primary Department. In addition, Zakat Payer did not file a grievance before Primary Department within the statutory period. Therefore, ZATCA Decision becomes unappealable by expiry of statutory period in accordance with Paragraph (2) of Article (3) of Tax Dispute and Violation Committee Procedures. Furthermore, ZATCA requests the Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On … dated../../.. AH corresponding to ../../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Since Zakat Payer's appeal involves failure to file an objection before Primary Department within the statutory period for a reason attributed to a malfunction with the website of the General Secretariat of Zakat, Tax and Customs Committees. On the other hand, ZATCA requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of Zakat Payer's appeal and Documents included in Case file, the Department found that Zakat Payer was informed of partial rejection of its objection on ../../..., and applied for registering its Case via e-mail of the General Secretariat of Zakat, Tax and Customs Committees on ../../... due to failure to register the Case via the e-system. Since Zakat Payer registered its Case before this Department, it turns out that Zakat Payer registered its Case within the statutory period. Therefore, this Department overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remands the Case for reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (IFR-2020-106) rendered in Case No. (Z-13446-2019) regarding tax assessment for 1439.

Second: On Merits:

Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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

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Keywords
Zakat - Accounts - Within Statutory Period - Payment Invoices - Remanding Case

Abstract

Appellant (Zakat payer) requests overturning Primary Department's Decision No. (IRF-2020-27) regarding zakat assessment for years from 2013 to 2016. Zakat Payer's appeal involves there is no ground for dismissing Zakat Payer's Case in form by Primary Department, as it was filed by a party having capacity and within the statutory period. Having taken cognizance of Zakat Payer's appeal, and since the Department's Decision subject matter of appeal was rendered dismissing Case on the ground that the objection before ZATCA was filed after expiry of statutory period. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

To consider appeal filed on ../../... corresponding to ../../... by …, holder of National ID No (...), in his capacity as Appellant's attorney under POA No.(…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IRF-2020-27) rendered in Case No. (Z-7846-2019) regarding zakat assessment for years from 2013 to 2016 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case filed by Plaintiff (...), holder of National ID No (...), TIN (...), against Defendant (ZATCA) for failure to file an objection to Defendant's Decision subject matter of appeal within the statutory period.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

zakat Payer requests overturning Primary Department's Decision subject matter of appeal, claiming that Zakat Payer filed its objection to ZATCA within the statutory period. However, due to the requirement for payment as a condition for accepting objection, additional time was required, which was not considered by either ZATCA or the Department in its Decision. Therefore, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal for the aforementioned reasons.

Since the Department decided opening of pleadings, ZATCA submitted an answer dated ../../... corresponding to ../../... wherein replies to Zakat Payer's appeal. The answer is summed up in that ZATCA reiterates its previous position submitted before Primary Department. Moreover, Zakat Payer's arguments do not differ from what previously

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submitted, to which ZATCA has already answered at that time. Therefore, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.
On … dated../../.. AH corresponding to ../../..., the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.
On … dated../../.. AH corresponding to ../../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.
On Merits: Since Zakat Payer's appeal involves the argument that there are no valid reasons for Primary Department to dismiss the Case in form, as it was submitted by a party having capacity and within the statutory period. On the other hand, ZATCA requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of Zakat Payer's appeal, since the Department's Decision subject matter of appeal was rendered dismissing the Case in form on the ground that Zakat Payer filed the objection before ZATCA after expiry of statutory period. Since the Facts and Documents of the Case indicate that the final assessment for years in question was issued on 01/08/1439 AH corresponding to 17/04/2018 AD, and based on the evidence provided by Appellant, including a screenshot from ZATCA website showing details of objection and payment invoices dated 29/05/2019 AD, it turns out that Zakat Payer filed its objection within the statutory period. Since ZATCA did not submit any evidence before this Department that contradicts what Zakat Payer has provided, the Department accepts Zakat Payer's appeal, overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remands the Case for consideration on merits.
In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (IRF-2020-27) rendered in Case No. (Z-7846-2019) regarding zakat assessment for years from 2013 to 2016.
Second: On Merits:
Accept Zakat Payer's appeal, overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.
May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.

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Decision No. IR-2022-68
Case No. Z-31414-2020

Keywords
Zakat - Accounts - Settlement Request - Overturning Primary Department's Decision - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IFR-2020-268) regarding zakat assessment for 2014. Zakat Payer's appeal involves objection to dismissing its Case in form by Primary Department, as it was filed by a party having capacity and within the statutory period from the date of being notified of ZATCA Resolution Committee, since the Department found that Zakat Payer registered its Case within the statutory period from the date of settlement request rejection notification. Therefore, the Department accepts the appeal and remands the Case.

Documents:

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

Facts

To consider appeal filed on ../../... corresponding to ../../... by …, holder of National ID No (...), in his capacity as Appellant Company's attorney under POA No.(…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-268) rendered in Case No. (Z-15178-2020) regarding zakat assessment for 2014 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case filed by Plaintiff (... Company), TIN (...), against Defendant (ZATCA) for failure to file a grievance before Primary Department against Defendant's Decision subject matter of the Case within the statutory period.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming that dismissing the Case in form by Primary Department is invalid, since the Department did not consider the Decision of Internal Committee (Resolution Committee) on the ground that after ZATCA issued assessment Decision, Zakat Payer filed an objection within the statutory period. Thereafter, Zakat Payer submitted settlement request to Resolution Committee whose Decision was issued on 30/04/2020 AD. Thereupon, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal for the aforementioned reasons.

On … dated../../.. AH corresponding to ../../..., the Department decided holding remote litigation session for (10) days. Therefore, ZATCA submitted an answer wherein replies to Zakat Payer's appeal, by reiterating its previous position presented before Primary Department. In addition, Primary Department's Decision was rendered in accordance

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with Article (2) of Tax Dispute and Violation Committee Procedures. Since the interval between objection rejection date and Case filing date is more than (30) days. Therefore, the Decision becomes unappealable by expiry of statutory period. Moreover, Zakat Payer's arguments do not differ from what previously submitted, to which ZATCA has already answered at that time. Furthermore, ZATCA requests the Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Since Zakat Payer's appeal involves the argument that there are no valid reasons for Primary Department to dismiss the Case in form, as it was filed a by a party having capacity and within the statutory period from the date of being notified of ZATCA Resolution Committee's Decision. On the other hand, ZATCA requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute and Primary Department's Decision, the Department found that the appeal involves Zakat Payer's request to accept its Case in form on the ground of being filed within the statutory period from the date of being notified of Resolution Committee's Decision. Since Primary Department's Decision to dismiss the Case in form was based on the fact that the Case was filed after expiry of statutory period from the date of notifying Zakat Payer of ZATCA rejection of objection to its Decision. Since this Department found that Zakat Payer submitted a settlement request to ZATCA Internal Settlement Committee on 22/01/2020 AD, and that Zakat Payer was notified of settlement request rejection on 30/04/2020 AD, and subsequently filed the case with the General Secretariat on 12/05/2020 AD in accordance with Article (2) of Tax Dispute and Violation Committee Procedures that grants Zakat Payer the right to file its Case before Primary Committees within thirty days from the date of being notified of Internal Committee's Decision or expiry of statutory period. This indicates that Zakat Payer filed its Case within the statutory period from the date of being notified of settlement request rejection. Therefore, this Department overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remands the Case for reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Company), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (IFR-2020-268) rendered in Case No. (Z-15178-2020) regarding zakat assessment for 2014.

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Second: On Merits: Accept Zakat Payer's appeal, overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.

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

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Keywords
Zakat - Accounts - Within Statutory Period - Overturning Primary Department's Decision - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IZJ-2021-1262) regarding zakat assessment for 2014. Since Zakat Payer's appeal involves the argument that there are no valid reasons for Primary Department to dismiss the Case in form, as it was filed a by a party having capacity and within the statutory period. The Department found that Zakat Payer was notified of objection result by ZATCA and filed an objection before Primary Department on .. /.. /... AH corresponding to ../.. /... AD. Thereupon, it turns out that Zakat Payer registered its Case with the General Secretariat of Zakat, Tax and Customs Committees within the statutory period. Therefore, the Department accepts the appeal in form and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider appeal filed on ../../... corresponding to ../../... by …, holder of National ID No (...), in his capacity as Appellant Company's attorney under POA No.(…), against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2021-1262) rendered in Case No. (Z-39430-2021) regarding zakat assessment for 2014 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case in form filed by Plaintiff (... Company), C.R. No. (...), against Defendant (ZATCA) as stated in the Grounds.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming that Zakat Payer was notified of rejection on ../../... and filed an objection thereto before Primary Department on 28/02/2021 AD, which indicates that the objection was filed within the statutory period of thirty days from the date of being notified of the Decision. Thereupon, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal and considering its Case on merits for the aforementioned reasons.

On … dated../../.. AH corresponding to ../../..., the Department decided holding remote litigation session for (10) days. Therefore, ZATCA submitted an answer wherein replies to Zakat Payer's appeal, by reiterating its previous position presented before Primary Department. In addition, Zakat Payer did not file an objection before Primary Department

within the statutory period. Therefore, ZATCA Decision becomes unappealable by expiry of statutory period for appeal in accordance with Article (2) of Tax Dispute and Violation Committee Procedures. Furthermore, ZATCA requests the Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On … dated../../.. AH corresponding to ../../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Since Zakat Payer's appeal involves the argument that there are no valid reasons for Primary Department to dismiss the Case in form, as it was submitted a by a party having capacity and within the statutory period. On the other hand, ZATCA requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of Zakat Payer's appeal for 2014, Documents included in Case file and Primary Department's Decision subject matter of appeal, the Department found that Zakat Payer was notified of objection result by ZATCA on ../../... corresponding to ../../..., and filed an objection before Primary Department on ../../... corresponding to ../.. /... AD, which indicates that Zakat Payer registered its Case before the General Secretariat of Zakat, Tax and Customs Committees within the statutory period. Therefore, this Department accepts Zakat Payer's appeal, overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah and remands the Case for reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Company), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2021-1262) rendered in Case No. (Z-39430-2021) regarding zakat assessment for 2014.

Second: On Merits:

Accept Zakat Payer's appeal, overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.

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

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Keywords
Zakat - Accounts - Expiry of Statutory Period - Failure to Notify of Zakat Payer of Zakat Assessment - Remanding Case

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IZD-2020-194) regarding zakat assessment for 1432. Zakat Payer's appeal involves claim that the challenged Decision omitted ensuring that Zakat Payer statutorily received zakat assessment notification from ZATCA. Zakat Payer asserts filing an objection to assessment before ZATCA on 24/12/1440 AH, while the Department's Decision stated that Zakat Payer was notified on 06/09/1440 AH and filed an objection before ZATCA on 08/07/1440 AH. This discrepancy was the basis for Primary Department's Decision to dismiss Zakat Payer's objection in form on the Grounds that it was filed after expiry of statutory period. In addition, the Decision did not include reasons for disregarding dates provided by ZATCA, nor did it provide justification for the dates on which Primary Department relied in its Decision, which resulted in dismissing Zakat Payer's objection in form. Therefore, the Department overturns Primary Department's Decision and remands the Case.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider appeal filed on ../../... corresponding to ../../... by …, holder of National ID No. (...), in his capacity as Appellant Enterprise's attorney under POA No. (…), against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-194) rendered in Case No. (Z-11880-2020) regarding zakat assessment for 1432 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case in form filed by Plaintiff (... Enterprise), C.R. No. (...), due to expiry of statutory period.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision, claiming that the Decision did not ensure validity of ZATCA procedures. In addition, Zakat Payer claims that Zakat Payer was not properly notified of the Decision in a manner that would produce its intended effects, arguing that Zakat Payer did not receive the Decision in accordance with Paragraph (1) of Article (22) of the Implementing Regulations for the Collection of Zakat.

Zakat Payer further points to ZATCA statement that the assessment was made on ../../... Zakat Payer also states that ZATCA did not mention notifying Zakat Payer of such assessment. Moreover, the period during which the assessment was issued, as stated by ZATCA, was when Zakat Payer was outside the Kingdom for medical treatment, and he did not receive any assessment notification. He submitted a medical report proving the same. Furthermore, the error in assessment and overestimation of zakat concern real estate deeds that he does not own and are not related to him. These deeds are registered in his name only superficially, while in reality, such deeds belong to other key partners. The deeds were transferred to his name to facilitate brokerage operations. In addition, ZATCA did not deduct from the claim the amounts that Zakat Payer paid to charities registered with the State, and he has the Documents that prove the same. Therefore, Zakat Payer requests overturning Primary Department's Decision for the aforementioned reasons.

On ....., dated... /.. /... corresponding to .. /.. /..., the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Having taken cognizance of Case file, the Department found that Zakat Payer's appeal involves claim that the appealed Decision omitted ensuring that Zakat Payer statutorily received ZATCA assessment. ZATCA argued before Primary Department, as documented in the Decision subject matter of appeal, that Zakat Payer was notified of assessment on 05/07/1440 AH. However, Zakat Payer filed an objection to the assessment before ZATCA on 24/12/1440 AH. Meanwhile, the Department, in its reasoning, stated that Zakat Payer was notified on 06/09/1440 AH and filed an objection before ZATCA on 08/07/1440 AH. This is the basis on which Primary Department relied to reach its Decision dismissing Zakat Payer's objection in form, determining that the objection was filed after expiry of statutory period. The Decision subject matter of appeal dismissed the Case in form on the ground of being filed after expiry of statutory period based on dates stated in its reasoning, which differed from the dates provided by ZATCA. In addition, the Decision did not include reasons for disregarding dates provided by ZATCA, nor did it provide justifications for relying on the dates that were used to reach the conclusion of dismissing Zakat Payer's objection in form. Thereupon, this Department found that the Decision subject matter of appeal relied on Facts that contradict the dates acknowledged by ZATCA regarding Zakat Payer's objection filing dates without elaboration reasons for this discrepancy. Thereupon, this Department found that the Decision subject matter of appeal is not consistent with the Facts established before this Department. This indicates that the dispute has not been fully resolved on its merits as concluded by Primary Department, and thus the Department has not exhausted its jurisdiction in adjudicating subject matter of dispute. Therefore, this Department overturns the Decision rendered by the First Department for Determination of Income

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Tax Violations and Disputes in Dammam and remands the Case for reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No (IZD-2020-194) rendered in Case No. (Z-11880-2020) regarding tax assessment for 1432.

Second: On Merits: Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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Keywords

Zakat - Accounts - ZATCA Assessment after Expiry of Statutory Period - Import Variances - Contract Variances

Abstract

Appellant (ZATCA) requests overturning Primary Department's Decision No. (Z-7757-2019) regarding zakat assessment for 2012. Since the statutory period for making assessment is five years from the deadline for filing declaration. Having taken cognizance of letters of amendments made by ZATCA to Zakat Payer's declaration, it turns out that ZATCA made assessment for Zakat Payer on 15/11/2018 AD. Since the date of filing zakat declaration for 2012 expires on 30/04/2012 AD, it turns out that the assessment was made after expiry of five-year period from the date of filing Zakat Payer's declaration. Therefore, the Department dismisses the appeal and upholds Primary Department's Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal filed on .. /.. /... corresponding to ../.. /... AD, by ZATCA against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-223) issued in Case No. (Z-7757-2019) in connection with Zakat assessment for 2012, in the Case filed by Zakat payer against ZATCA, in which the Primary Department decided as follows:

1. Accept objection filed by Plaintiff regarding zakat assessment for 2011 and 2012.
2. Accept objection filed by Plaintiff regarding depreciation variances.
3. Accept objection filed by Plaintiff regarding excess social insurance expenses.
4. Accept objection filed by Plaintiff regarding import variances.
5. Accept objection filed by Plaintiff regarding provisions.
6. Accept objection filed by Plaintiff regarding advance payments.
7. Accept objection filed by Plaintiff regarding financing lease obligations for 2011.
8. Accept objection filed by Plaintiff regarding project provision.
9. Accept objection filed by Plaintiff regarding accounts payable.
10. Accept objection filed by Plaintiff regarding fixed assets.
11. Establish resolution of dispute regarding deferred financing interests.
12. Establish resolution of dispute regarding expenses of previous years.
13. Establish resolution of dispute regarding advance payments of purchasing fixed assets.
14. Accept objection filed by Plaintiff regarding loans against fixed assets for 2012.

15. Establish resolution of dispute regarding lease obligations for 2013.

Dissatisfied with this Decision, Appellant (ZATCA) submitted a statement of appeal summarized as follows:

ZATCA objects to Primary Department's Decision subject matter of appeal, specifically limiting its objection to Primary Department's Decision in "Second: On Merits", arguing the following: Regarding statute of limitations, it involves ZATCA ability to prove that Zakat Payer's declaration is incorrect, which alone justifies ZATCA right to amend the declaration in accordance with Paragraph (8.C) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. Furthermore, Primary Department's confidence in all items was primarily based on its confidence in (Import Variances) item and (Contract Variances) item, despite the fact that ZATCA made amendments to fifteen items. In addition, ZATCA has demonstrated the correctness of amendments to the items subject matter of appeal as stated in the amended assessment. Regarding the remaining items, the Department has rendered Decisions regarding years that are not relevant to the year in question. In addition, the Department did not discuss those items with ZATCA representative during the hearing. The Department provided a single reasoning for all items, which is "The Department has confidence in accuracy of Plaintiff's declaration and accordingly accepts Plaintiff's objection", without specifying Documents relied upon in confidence in Zakat Payer's declaration. Furthermore, the Primary Department did not detail the reason for confidence in Zakat Payer's submission, rendering the Decision flawed and unsubstantiated due to the lack of clarity, as judicial rulings and their justifications should be based on certainty and established Facts, rather than assumptions or mere confidence. In addition, ZATCA reiterates the points made in its detailed memorandum submitted to the Department regarding these items. Therefore, ZATCA requests overturning Primary Department's Decision for the aforementioned reasons.

Since the Department decided opening of pleadings, Zakat Payer submitted an answer dated 22/05/1442 AH corresponding to 05/01/2021 AD wherein replies to ZATCA appeal. Zakat Payer argues the following: Regarding Department's alleged failure to provide reasons for its confidence in the accuracy of Defendant's declaration, this falls within the jurisdiction of the Department. In fact, the Department's Decision was well-reasoned, dismissing ZATCA amendments to the two declarations because ZATCA had no right to make such amendments after expiry of five-year statutory period, given the correctness of Zakat Payer's declaration. This removes the obligation for the Honorable Department to substantively adjudicate those items, as doing so would be futile given its ruling in favor of Zakat Payer, allowing the declaration to stand without amendment by ZATCA, a point that ZATCA overlooked. Moreover, ZATCA also failed to recognize that the Honorable Department had relieved itself of the duty to adjudicate those items because ZATCA is not entitled to make such amendments, rendering those amendments null and void. The Department ruled on the merits because ZATCA did not provide the necessary evidence to substantiate its claims. Therefore, Zakat Payer requests dismissing ZATCA appeal and upholding Primary Department's Decision subject matter of appeal for the aforementioned reasons.

On Wednesday, 07/03/1443 AH corresponding to 13/10/2021 AD, the Department decided holding remote litigation session for (10) days. Therefore, Zakat Payer submitted Documents that their content does not differ from what had previously been submitted.

On Thursday 03/06/1443 AH corresponding to 06/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

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Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by ZATCA, the Department found that the formal requirements for appeal hearing have been met as stipulated by the relevant laws, regulations and Decisions. Therefore, the appeal is accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

Having taken cognizance of subject matter of the dispute and Case file, since the statutory period for making assessment is five years from the deadline for filing declarations. Having taken cognizance of letters of amendments made by ZATCA to Zakat Payer's declaration, it turns out that ZATCA made assessment for Zakat Payer on 15/11/2018 AD. Since the date of filing zakat declaration for 2012 expires on 30/04/2012 AD, it turns out that the assessment was made after expiry of five-year period from the date of filing Zakat Payer's declaration. This is not affected by ZATCA argument that it is entitled to reopen assessments after expiry of statutory period due to misapplication of the law by Zakat Payer, as the exception permitted by the legislator is limited to material and computational errors, which involve arithmetic operations and numerical processing. However, the application of the law or changes in practice regarding its application are matters for which the legislator did not grant ZATCA the right to reassess Zakat Payer after expiry of five-year period. Since the principal rule is to accept Zakat Payer's declaration unless evidence to the contrary is presented. Since the resolutions of zakat collection were based on determining period of five years from the deadline for filing zakat declaration for each year. Since this period is established to ensure transaction stability and prevent instability of Zakat Payers' financial positions in case of lack of a timeframe that ensures maintaining their financial positions. Thereupon, the Department dismisses ZATCA appeal overturns and upholds the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Appellant (ZATCA) against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No (IZD-2020-223) rendered in Case No. (Z-7757-2019) regarding zakat assessment for 2012.

Second: On Merits:

Dismiss ZATCA appeal and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam according to reasons and Grounds stated herein.

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Keywords
Zakat - Accounts - Real Estate Activity - Case Value not Exceeding SAR 50,000

Abstract

Appellant (ZATCA) requests overturning Primary Department's Decision No. (ISZR-2020-49) regarding zakat assessment for 1440. Since Case value does not exceed SAR 50,000; therefore, Primary Department's Decision shall be final and unappealable. Therefore, the Department dismisses the Case in form.

Instruments:

- Article (42) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH

Facts:

To consider the appeal filed on .. /../... by ZATCA against the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh No. (ISZR-2020-49) rendered in Case No. (Z-3419-2019) regarding zakat assessment for 1440 filed by Zakat Payer against ZATCA. Primary Department's Decision states:
First: Accept the Case in form filed by the Plaintiff (...), holder of National ID No. (...), in his capacity as Owner of (... Office), C.R. No. (...).
Second: On Merits:

1. Establish resolution of dispute regarding Defendant's procedure related to calculating net revenue of SAR 100,000 for the furnished residential unit activity.
2. Cancel Defendant's procedures regarding the calculation of an annual net revenue of SAR 60,000 for C.R. No. (…) in the name of (... Office) as stated in the Grounds.

Dissatisfied with this Decision, Appellant (ZATCA) submitted a statement of appeal summarized as follows:
ZATCA objects to Primary Department's Decision subject matter of appeal, claiming that it calculated a zakat base of SAR 60,000 for Zakat Payer because the activity was related to real estate. ZATCA argues that the appealed Decision rendered by the Department is invalid, as it canceled ZATCA procedure based on the argument that the applicable legal provisions to the assessment in question are the provisions of the Implementing Regulations for the Collection of Zakat issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH. However, Paragraph (6.A) of Article (13) of the same regulations emphasized the said circular, stating: "Zakat base, calculated on an estimated basis, shall comprise the following, unless Zakat Payer's declaration shows a larger base: A. Working capital shall be determined by any available means, whether through the commercial register, company contracts and its articles of association or any other supporting document. If it turns out that the actual working capital differs from the same, ZATCA shall be entitled to determine it in proportion to the volume of activity and the number of

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capital cycles according to industry, trade or business norms". Since ZATCA assessed the zakat base according to norms of real estate activity. Therefore, ZATCA requests overturning Primary Department's Decision for the aforementioned reasons.

On ....., dated... /.. /...., corresponding to... /.. /..., the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On ....., dated... /.. /...., corresponding to... /.. /..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH and the relevant laws and regulations.

Since it is established from the appealed Decision and Case Documents that the amount in question is less than SAR 50,000; and since Article (42) of Tax Dispute and Violation Committee Procedures states: "Decisions of the dispute committee shall become final in the following cases: 1. If the value of the suit does not exceed 50,000 riyals". Since the value of this claim did not exceed fifty thousand riyals, this Department concludes that Primary Department's Decision has become final and unappealable. Therefore, this Department dismisses ZATCA appeal in form.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

Dismiss ZATCA appeal in form filed against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-49) rendered in Case No. (Z-3419-2019) regarding zakat assessment for 1440 due to the fact that the value of this Case does not exceed SAR 50,000.

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Keywords
Zakat and Tax - Accounts - Failure to Attend Hearing Session - Failure to Provide Zakat Payer with Session Link

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IZD-2020-216) regarding zakat assessment for years from 2010 to 2014. Since Zakat Payer's appeal involves failure to be provided with the link of hearing session before Primary Department by the General Secretariat of Zakat, Tax and Customs Committees. Accordingly, the Case was dismissed. Since the Department found that Zakat Payer did not attend the hearing session, and that Zakat Payer argues its inability to attend the hearing session was due to reasons beyond its control, specifically not receiving session link. Therefore, the Department accepts Zakat Payer's appeal and remands the Case to Primary Department.

Instruments:

- Paragraph (2) of Article (20) of Tax Dispute and Violation Committee Procedures promulgated by Royal Decree No. (26040) dated 21/04/1441 AH

Facts:

To consider appeal filed on ../../... corresponding to ../../... by …, holder of National ID No (...), in his capacity as Appellant Company's attorney under POA No.(…), against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-216) rendered in Case No. (ZIW-7988-2019) regarding zakat assessment for years from 2010 to 2014 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the Case and consider it as if it had never been filed.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision, subject matter of appeal, claiming that Zakat Payer was informed of session date, but no link was sent. In addition, Zakat Payer requested the General Secretariat to provide the link before the session, but it did not provide such link. Thereupon, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal for the aforementioned reasons.

On Wednesday, 07/03/1443 AH corresponding to 13/10/2021 AD, the Department decided holding remote litigation session for (10) days. Therefore, Zakat Payer submitted Documents that their content does not differ from what had previously been submitted.

On Thursday, 03/06/1443 AH corresponding to 06/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its

merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds:

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated by Tax Dispute and Violation Committee Procedures and the relevant laws, regulations and Decisions. Therefore, the appeal is accepted in form for being submitted by a party having capacity and within the statutory period.

On Merits: Zakat Payer's appeal involves failure to attend the hearing session due to the fact that Zakat Payer was not provided with the link of hearing session before the General Secretariat of Zakat, Tax and Customs Committees that dismissed the Case. Having taken of Zakat Payer's appeal and appealed Decision, the Department found that Paragraph (2) of Article (20) of Tax Dispute and Violation Committee Procedures states: "If the suit is not ripe for judgment, the circuit shall dismiss it. If the plaintiff does not request proceeding with the suit within 30 days from the date of dismissal, or if the plaintiff fails to attend any hearing after proceeding therewith, the suit shall be dismissed without prejudice. The plaintiff may, without prejudice to the time limit specified for hearing the suit, file a new lawsuit". Since this Department found that the Decision did not include Case dismissal and proceeding therewith by Primary Department. Therefore, the Decision is flawed for lacking sufficient reasoning to support its conclusion. Since Primary Department based its Decision to dismiss the Case on failure of Zakat Payer or its attorney to attend the session. Zakat Payer contests that its failure to attend the session was due to circumstances beyond its control, specifically not receiving link of the session. Thereupon, the Department finds that Primary Department's Decision was invalid and violates Article (20) of Tax Dispute and Violation Committee Procedures. Therefore, this Department overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remands the Case for reconsideration in accordance with the relevant legal rules.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision:

First: Accept appeal in form filed by Zakat Payer (... Company), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No (IZD-2020-216) rendered in Case No. (ZIW-7988-2019) regarding zakat assessment for years from 2010 to 2014.

Second: On Merits:

Accept Zakat Payer's appeal, overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.

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

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Decision based on Substantive Aspect

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Decision No. IR-2022-197
Case No. Z-30435-2020

Keywords
Zakat - Accounts - Shareholders' Current Account - Bad Debts - Excess Sales Returns - Dividends - Fixed Assets

Abstract

Appellant (Zakat Payer / ZATCA) requests overturning Primary Department's Decision No. (IZJ-2020-123) regarding zakat assessment for 1438. Zakat Payer's appeal involves the following: Regarding (Shareholders' Current Account) item, Zakat Payer claims that the objection was filed with regard to the amount added to zakat base by ZATCA, rather than adding shareholders' current account to zakat base. Since it turns out that the opening balance is the lower one, and that there are not additions to the balance from equities. Therefore, the amount that completed a full year is the opening balance of SAR 56,780,594.37. As for ZATCA appeal regarding (Bad Debts for 1438), ZATCA appeal involves claim that Zakat Payer did not provide Documents that support meeting conditions stipulated by the Implementing Regulations for the Collection of Zakat, considering bad debts as allowable expenses. As for ZATCA appeal regarding (Bad Debts for 1438), ZATCA appeal involves claim that Zakat Payer did not provide Documents that support meeting conditions stipulated by the Implementing Regulations for the Collection of Zakat, considering bad debts as allowable expenses. Therefore, the Department accepts Zakat Payer's appeal and dismiss ZATCA appeal.

Instruments:

- Article (1) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH

Facts:

To consider the appeal filed on .. ../... corresponding to .. \..\.. by ..., holder of National ID No. (...), in his capacity as Appellant Company's attorney under its memorandum of association, and appeal filed on .. /.. /... corresponding to .. /.. /... by ZATCA against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-123) rendered in Case No. (Z-7747-2019) regarding zakat assessment for 1438 filed by Appellant against ZATCA. Primary Department's Decision states:

First: In from: Accept the Case in form filed by Plaintiff (...), C.R. No. (...).

Second: On Merits:

1. Dismiss objection filed by Plaintiff (... Company) regarding (Gifts and Gratuities) item.
2. Accept objection filed by Plaintiff and cancel Defendant's Decision regarding (Bad Debts) item.
3. Accept objection filed by Plaintiff and cancel Defendant's Decision regarding (Excess Sales Returns) item.

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4. Dismiss objection filed by Plaintiff (... Company) regarding (Shareholders' Current Account) item.
5. Dismiss objection filed by Plaintiff (... Company) regarding (Other Accounts Payable) item.
6. Accept objection filed by Plaintiff and cancel Defendant's Decision regarding (Dividends) item.
7. Accept objection filed by Plaintiff (... Company) and cancel Defendant's Decision regarding (Fixed Assets) item.

Dissatisfied with that Decision, both parties filed a statement of appeal summarized as follows:

As for Zakat Payer's appeal against Primary Department's Decision, Zakat Payer's appeal involves: Regarding (Shareholders' Current Account) item, Zakat Payer objects to adding this item to zakat base and claims that the opening balance of the current account according to the financial statements is SAR 56,780,594.37, while the closing balance appears as SAR 61,301,623.06. While ZATCA added the higher balance instead of the lower one. Therefore, Zakat Payer requests overturning Primary Department's Decision regarding the item subject matter of appeal for the aforementioned reasons.

ZATCA also dissatisfied with the Decision; therefore, ZATCA filed its appeal against the contested Decision under a statement of appeal summarized as follows:

As for ZATCA appeal regarding (Bad Debts for 1438), ZATCA elaborates that the Implementing Regulations for the Collection of Zakat stipulates in Paragraph (3) of Article (5) thereof several conditions for considering bad debts as allowable expenses, including: 1. Zakat Payer shall provide a certificate from its chartered accountant confirming that such debts have been written off from the books based on a Decision by the authorized person. 2. The debts shall not be related to entities associated with Zakat Payer. In addition, Zakat Payer did not provide the supporting Documents to fulfill these two conditions. Furthermore, the reliance of Primary Department on a circular that was addressed by the Implementing Regulations for the Collection of Zakat issued in 1438 regarding bad debts is invalid, as there is a legal provision in the regulations that addresses this issue. Regarding (Excess Sales Returns for 1438) item, ZATCA states that it considered the trial balance provided by Zakat Payer and found sales returns in the amount of SAR 28,312,631 in 12/1438 AH. In addition, Zakat Payer did not provide supporting Documents or elaborate the reason for these sales returns at the year-end. Having asked Zakat Payer about the reason for these returns, no Documents were provided to justify the same. Accordingly, ZATCA handled this amount by comparing sales returns for 1438 AH with the closing inventory and adding variance to the adjusted net profit in accordance with Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat. Regarding (Dividends for 1438) item, ZATCA states that it did not review the supporting Documents, particularly the written authorization mentioned in the reasoning of Primary Department's Decision whereby Company's profits were transferred to some shareholders' sons. In addition, ZATCA emphasizes that reliance on Documents that were not reviewed is not permissible in accordance with Article (29) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040) dated 21/04/1441 AH. Regarding (Fixed Assets for 1438) item, ZATCA believes that Primary Department's conclusion, which stated that ZATCA circulars gave Zakat Payer the option to apply depreciation method of their choice, is invalid. ZATCA procedures are based on Circular No. (9/2574) dated 14/05/1426 AH, Circular No. (9/1724) dated 24/03/1427 AH, and Article (17) of Income Tax Law. Therefore, ZATCA insists on accuracy and correctness of its procedure and requests upholding its procedure and overturning Primary Department's Decision regarding the items subject matter of ZATCA appeal for the aforementioned reasons.

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On .., ../../... corresponding to ../../..., the Department decided holding remote litigation session for (10) days. Therefore, ZATCA submitted an answer wherein replies to Zakat Payer's appeal. The statement of appeal is summed up in that ZATCA insists on validity of Primary Department's Decision that upheld ZATCA procedure regarding the items subject matter of appeal. In addition, ZATCA argues that regarding (Shareholders' Current Account), ZATCA insists on Primary Department's Decision rendered in accordance with provisions of the Decision related to handling creditor's current account of taxpayer in sole proprietorships and shareholders in companies issued on 03/07/1412H, Paragraph (3) of Article (20) and Article (4) of the Implementing Regulations for the Collection of Zakat. Therefore, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision regarding the items subject matter of Zakat Payer's appeal for the aforementioned reasons. In addition, Zakat Payer submitted an answer summarized in that Zakat Payer requests dismissing ZATCA appeal and upholding Primary Department's Decision regarding the items subject matter of ZATCA appeal.
On .., ../../... corresponding to .. /../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer and ZATCA, the Department found that the conditions for considering appeal were met in form as stipulated by the relevant laws, regulations and Decisions. Therefore, the two appeals are accepted in form due to the fact of being filed by parties having capacities and within the statutory period.
On Merits: As for Zakat Payer's appeal regarding (Shareholders' Current Account) item, Zakat Payer's appeal involves objection to Primary Department's Decision that upheld ZATCA procedure outlined in adding this item to zakat base, and claims that the objection was filed regarding the amount added to zakat base by ZATCA, rather than adding shareholders' current account to the base. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute and Case Documents, the Department found that the opening balance is the lower one, and that there are not additions to the balance from equities. Therefore, the amount that completed a full year is the opening balance of SAR 56,780,594.37. Since the Department did not observe any requirement for correction or further comment based on the evidence provided by ZATCA. Therefore, the Department accepts Zakat Payer's appeal and overturns Primary Department's Decision regarding this item.
As for ZATCA appeal regarding (Bad Debts for 1438), ZATCA appeal involves Primary Department's Decision that accepted Zakat Payer's objection to this item, and claims that Zakat Payer did not provide Documents that support meeting conditions stipulated by the Implementing Regulations for the Collection of Zakat, considering bad debts as allowable expenses. On the other hand, ZATCA requests dismissing ZATCA appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute and Documents included in Case file, it turns out that Zakat Payer provided the necessary Documents that support the write-off of debts subject matter of the dispute and presented evidence proving cancellation of debt amounting to SAR 116,521. Since the Department found that Primary Department's conclusion is valid, and that the reasons underpinning its Decision are sufficient to uphold it. Therefore, this Department dismisses ZATCA appeal and upholds Primary Department's Decision regarding this item.

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Regarding (Excess Sales Returns for 1438) item, ZATCA appeal involves accepting Zakat Payer's objection regarding this item by Primary Department and claims that it considered the trial balance provided by Zakat Payer and found that there are sales returns for which Zakat Payer did not provide supporting Documents or elaborate the reason for these sales returns. Accordingly, ZATCA handled this amount by comparing sales returns with the closing inventory and adding variance to the adjusted net profit. Therefore, Zakat Payer requests dismissing ZATCA appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute and Documents included in Case file, the Department found that ZATCA ground for adding this amount to Zakat Payer's base was the fact that there is an amount of sales returns in the trial balance, and that ZATCA asked Zakat Payer to elaborate reasons for sales returns. Since sales returns are considered a natural part of business operations and are typically handled by reducing sales and adjusting cost of sales by the value of returned goods, and since that ZATCA did not establish a link between sales returns and their corresponding effect on the cost of sales, there is no ground for ZATCA to ask Zakat Payer to provide reasons for returns recorded in the accounting books, unless there is an issue with the accounting proof of the amounts that offset and adjust the overall impact of returns on Zakat Payer's profit. Therefore, this Department dismisses ZATCA appeal and upholding Primary Department's Decision regarding this item.

As for ZATCA appeal regarding (Dividends for 1438) item, ZATCA appeal involves claim that Primary Department's Decision accepted Zakat Payer's appeal regarding this item, and that ZATCA claims that it did not review the written authorization mentioned in the reasoning of Primary Department's Decision whereby Company's profits were transferred to some shareholders' sons. On the other hand, Zakat Payer requests dismissing ZATCA appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute and Documents included in Case file, and since that the dividends are not added to zakat base if proven to be distributed and transferred to independent accounts from Zakat Payer. Since Zakat Payer provided the supporting Documents for distributing such profits. Therefore, this Department dismisses ZATCA appeal and upholds Primary Department's Decision regarding this item.

As for ZATCA appeal regarding (Fixed Assets for 1438) item, ZATCA appeal involves argument that Primary Department accepted Zakat Payer's objection to this item, and claims that the statement that ZATCA circulars gave Zakat Payer the option to apply depreciation method of their choice is invalid because ZATCA, under the relevant circulars, applied depreciation method stipulated by Article (17) of Income Tax Law. On the other hand, Zakat Payer requests dismissing ZATCA appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute and Documents included in Case file, the Department found that by reviewing ZATCA appeal, ZATCA stated reasons different from those originally provided during the proceedings before Primary Department. ZATCA initially argued before Primary Department that it applied the Implementing Regulations for the Collection of Zakat, while ZATCA argues before this Department that it has applied ZATCA circulars related to implementing some procedural rules and accounting principles stipulated in Income Tax Law to zakat payers. Such an argument does not undermine Primary Department's conclusion, which was based on the argument presented before it. Since ZATCA did not provide, in its appeal, an analysis of amendments that it introduced to Zakat Payer's depreciation schedule, which would clarify the errors made by Zakat Payer and how those errors were corrected in a way that would allow for a reasoned objection to its procedure. Therefore, this Department dismisses ZATCA appeal and upholds Primary Department's Decision regarding this item.

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In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (...), CR. No. (...), TIN (...), and appeal filed by ZATCA against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-123) rendered in Case No. (Z-7747-2019) regarding zakat assessment for 1438.

Second: On Merits:

1. Accept Zakat Payer appeal regarding (Shareholders' Current Account for 1438) item and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah according to reasons and Grounds stated herein.
2. Dismiss ZATCA appeal regarding (Bad Debts for 1438) item and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah according to reasons and Grounds stated herein.
3. Dismiss appeal filed by ZATCA regarding (Excess Sales Returns for 1438) item and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah according to reasons and Grounds stated herein.
4. Dismiss appeal filed by ZATCA regarding (Dividends for 1438) item and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes Jeddah according to reasons and Grounds stated herein.
5. Dismiss appeal filed by ZATCA regarding (Fixed Assets for 1438) item and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah according to reasons and Grounds stated herein

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-198
Case No. Z-31160-2020

Keywords
Zakat - Accounts - Debts on Silos - Calculation of Adjusted Profit as Zakat Base - Accepting Appeal

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IFR-2020-141) regarding zakat assessment for 2005 and 2006. Regarding (Calculation of Adjusted Profit as Zakat Base) item, Zakat Payer's appeal involves objection to Primary Department's Decision that upheld ZATCA procedure outlined in not fully deducting fixed assets and taxing adjusted profit rather than zakat base. Since that fixed assets and equivalents are considered capital assets that contribute to both current and future production, regardless of their source of financing, zakat base is determined by the adjusted profit if zakat base is lower than that profit. Therefore, the Department accepts Zakat Payer's appeal.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2216) dated 07/07/1440 AH

Facts:

To consider appeal filed on 22/04/1442 AH corresponding to 07/12/2020 AD by ..., holder of National ID No. (...), in his capacity as Appellant Company's attorney under POA No. (...), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-141) rendered in Case No. (Z-182-2018) regarding zakat assessment for 2005 and 2006 filed by Appellant against ZATCA. Primary Department's Decision states:

First: Lack of Department's jurisdiction to consider the Case filed by Plaintiff (... Company), TIN..... against Defendant (ZATCA) regarding the enforcement of Appellate Committee for Zakat and Tax Objections Decision No. (1628) for 1438.

Second: Dismiss objection filed by Plaintiff (... Company), TIN..... against Defendant (ZATCA) Decision regarding (Calculation of Adjusted Profit as Zakat Base) item subject matter of the Case.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming that regarding (Debts on Silos for 2005 and 2006) item, Zakat Payer requests applying Appeal Committee for Tax Violations and Disputes Decision No. (1628) for 1438 which

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ruled in favor of Zakat Payer in deducting this item, but it was inadvertently overlooked in its wording the two years in question subject matter of the Case. Regarding (Calculation of Adjusted Profits as Zakat Base) item, ZATCA applied the Implementing Regulations for the Collection of Zakat issued on 01/06/1438 AH retroactively, in addition to failure to apply the answer of the fourth question of Council of Senior Scholars Fatwa No. (23408) dated 18/11/1426 AH. In addition, Zakat Payer requests deducting full fixed assets and for the company to be assessed based on zakat base, rather than adjusted profit. Therefore, Zakat Payer requests overturning Appeals Committee's Decision subject matter of appeal for the aforementioned reasons.

On Tuesday, 29/06/1443 AH corresponding to 01/02/2022 AD, the Department decided holding remote litigation session for (10) days. Therefore, ZATCA submitted an answer wherein replies to Zakat Payer's appeal, by reiterating its previous position presented before Primary Department. In addition, ZATCA claims the following: Regarding (Debts on Silos for 2005 and 2006) item, ZATCA insists on Primary Department's Decision, regardless of its consideration in accordance with provisions of Paragraph (1) of Article (76) of the Law of Civil Procedure. Regarding (Calculation of Adjusted Profit as Zakat Base) item, ZATCA deducts fixed assets in limit of equities in accordance with Circular No. (1/8443/2) dated 08/08/1392 AH. Moreover, Zakat Payer's reliance on Fatwa No. (23408) dated 18/11/1426 AH to support ZATCA procedure because the net profit for the relevant year can only be determined after closing accounts at the end of fiscal year. In addition, using adjusted net profit for the purpose of determining zakat base as a minimum threshold is supported by the fact that subjecting revenue to zakat is a recognized Islamic jurisprudential opinion regarding zakat on productive assets. This was confirmed by the Decision of the International Islamic Fiqh Academy in its second session, and Fatwa cited by Zakat Payer is precisely applicable if the available cash in the Company was invested in fixed assets or acquisition assets, which would lower profit balance as a result. Furthermore, according to accounting principles, the purchase of fixed assets is not considered an expense that is charged to income statement. Moreover, zakat is religiously imposed on capital. However, in some cases, zakat base is limited according to Sharia provisions to the yield of capital and its proceeds due to the nature of business activity. This is also confirmed by Article (4), Paragraph (9.I) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. In addition, ZATCA requests the department not to accept any new Documents that were not submitted throughout examination and objection stage, and requests the Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Therefore, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On Saturday, 20/10/1443 AH corresponding to 21/05/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: As for Zakat Payer's appeal regarding (Debts on Silos for 2005 and 2006), Zakat Payer's appeal involves objecting to ZATCA procedure outlined in overlooking

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enforcement of Appeal Committee for Tax Violations and Disputes Decision No. (1628), which ruled in favor of Zakat Payer by allowing deduction of this item but was inadvertently overlooked, in its wording, the two years in question. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal. Having taken cognizance of subject matter of the dispute and Zakat Payer's appeal, the Department found, upon referring to the previous Appellate Committee's Decision, that the Committee had discussed the dispute and mentioned the years 2005 and 2006. In addition, the Committee based its Decision on notes to the financial statements for such two years. Therefore, this Department concludes that the previous Committee had adjudicated the dispute. The omission of those years in its wording is considered a clerical error. Thereupon, this Department corrects such error by confirming that the previous Appellate Committee's Decision accepted Zakat Payer's appeal regarding this item for 2005 and 2006.

As for Zakat Payer's appeal regarding (Calculation of Adjusted Profit as Zakat Base) item, Zakat Payer's appeal involves objection to Primary Department's Decision that upheld ZATCA procedure outlined in deducting full fixed assets and imposing zakat on adjusted profit, rather than zakat base. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute, and considering that the standard procedure for calculating zakat base for Zakat Payer involves adding positive elements to zakat base, such as capital, equity, annual profits and other sources of funding, while deducting negative elements from zakat base, such as fixed assets, long-term investments, annual losses and carried forward losses. Since fixed assets and equivalents are considered capital assets that help in current and future production, regardless of their source of funding, the limitation of zakat base by the adjusted profit, if the base is lower than that profit, has no legitimate or legal ground. Therefore, Zakat Payer is entitled to deduct the net fixed assets and capital investments without being restricted by any specific limit. As such, this Department accepts Zakat Payer's appeal with regard to the matter of considering adjusted net profit as zakat base and overturns Primary Department's Decision regarding this item.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Company), C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-141) rendered in Case No. (Z-182-2018) regarding zakat assessment for 2005 and 2006.

Second: On Merits:

1. Accept Zakat Payer's appeal regarding (Debts on Silos for 2005 and 2006) item and correct the Decision rendered by Appellate Department for Income Tax Violations and Disputes, by confirming that the Decision includes acceptance of Zakat Payer's s appeal regarding this item for 2005 and 2006 according to reasons and Grounds stated herein.
2. Accept Zakat Payer's appeal regarding (Calculation of Adjusted Profit as Zakat Base) item and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh according to reasons and Grounds stated herein.

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Decision No. IR-2022-200
Case No. ZW-72364-2021

Keywords

Zakat - Accounts - Inadmissibility of Hearing Company's Objection Due to *Res Judicata* - Ministry of Finance Loan - Derecognizing Amounts Related to Capital Works-in-Progress (CWIP) - Accumulated Losses - Amounts Payable by Some Founders.

Abstract

Appellant (ZATCA) requests overturning Primary Committee's Decision No. (IZJ-2021-883) regarding zakat assessment for years from 1427 to 1433. Zakat Payer's appeal involves the following: Regarding (Company's Objection for years from 1427 to 1430) item, Zakat Payer claims that Primary Department did not consider its objection on the ground that Appellate Committee rendered a Decision regarding such years. Regarding (Ministry of Finance Loan for 1433) item, (Derecognizing Amounts Related to CWIP for years from 1431 to 1433) item and (Accumulated Losses) item, Zakat Payer objects to Primary Department's Decision that upheld ZATCA procedure outlined in adding the two items to zakat base. As for ZATCA appeal and request for dismissing the Case in form and regarding (Amounts Payable by Some Founders for years from 1431 to 1433) item, the Committee found that payments made to some founders outline amounts paid to some landlords in return for lost revenues due to cessation of their activities and operations. In addition, these amounts are to be recovered by deduction from their dividend payout ratio. Therefore, the Department accepts Zakat Payer's appeal regarding (Ministry of Finance Loan) item and (Derecognizing Amounts Related to CWIP) item, dismisses it regarding (Accumulated Losses) item, inadmissibility of (Company's Objection for years from 1427 to 1430) item and dismisses ZATCA appeal.

Instruments:

- Article 76.1 of Law of Civil Procedures promulgated by Royal Decree (M/1) of 22/01/1435 AH

Facts:

To consider appeal filed on ../../... corresponding to ../../... by ..., holder of National ID No. (...), in his capacity as the legal representative of Appellant Company, under its memorandum of association, and appeal filed on 22/02/1443 AH corresponding to 29/09/2021 AD by ZATCA, against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2021-883) rendered in Case No. (ZW-22993-2020) regarding zakat assessment for years from 1427 to 1433 filed by Appellant against ZATCA. Primary Department's Decision states:

First: Dismiss objection filed by Plaintiff (... Company), C.R. No. (...), to (Ministry of Finance Loan for 1433) item.

Second: Accept objection filed by Plaintiff (... Company), C.R. No. (...), to (Amounts Payable by Some Founders) item.

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Third: Dismiss objection filed by Plaintiff (... Company), C.R. No. (...), to (Derecognizing Amounts Related to CWIP) item.
Fourth: Dismiss objection filed by Plaintiff (... Company), C.R. No. (...), to (Accumulated Losses) item.
Fifth: Establish resolution of dispute regarding (Withholding Tax) item by Plaintiff's acceptance of Defendant's procedure.
Dissatisfied with that Decision, both parties filed a statement of appeal summarized as follows:
As for Zakat Payer's appeal against Primary Department's Decision, Zakat Payer's appeal involves: Regarding (Company's Objection for years from 1427 to 1430) item, Zakat Payer claims that Primary Department's Decision dismissed its objection on the ground that Appellate Committee rendered a Decision in this regard. In addition, Zakat Payer states that it submitted a petition to the Board of Grievances "BoG" against Decision No. (2473) for 1439 for consideration of grievance. Therefore, Zakat Payer requests considering such grievance according to Company's petition. Regarding (Ministry of Finance Loan for 1437) item, Zakat Payer claims that the amount of loan used in financing long-term assets is SAR 868,326,168. In addition, the remaining amount of loan included in zakat base amounting to SAR 669,218,139 was not used in financing long-term assets and did not complete a full year. Regarding (Derecognizing Amounts Related to CWIP for years from 1431 to 1433) item, Zakat Payer claims that CWIP balance outlines expenses incurred by the Company in developing lands, construction works and others. Regarding (Accumulated Losses) item, Zakat Payer requests deducting carried forward losses according to Company's financial statements, rather than ZATCA assessment. Therefore, Zakat Payer requests overturning Primary Department's Decision regarding the items subject matter of appeal for the aforementioned reasons.
ZATCA also dissatisfied with the Decision; therefore, ZATCA filed its appeal against the contested Decision under a statement of appeal summarized as follows:
First: In from: ZATCA insists on its requests submitted to Primary Department regarding inadmissibility of the Case in form in accordance with Article (2) and Article (3) of Tax Dispute and Violation Committee Procedures, as the interval between Zakat Payer's objection before ZATCA and its grievance before Primary Department is more than 120 days. Thereupon, by lapse of time-limit, the appealed Decision becomes unappealable by lapse of time-limit. However, Primary Department did not discuss this plea in the details of its Decision subject matter of appeal, nor did it discuss reasons for accepting the Case in form. Therefore, the Decision is considered marred by a defect in form. Second: On Merits: As for ZATCA appeal regarding (Amounts Payable by Some Founders for years from 1431 to 1433), ZATCA states that, according to notes to the financial statements, these amounts were paid to some landlords in return for lost revenues due to the cessation of their activities and operations. In addition, these amounts will be recovered from their dividend payout ratios according to Company's articles of association. Therefore, such amounts are considered loans and are subject to zakat in accordance with Fatwa No. (2/3077) dated 08/11/1426 AH pertaining to zakat on payables and receivables. As for Primary Department's conclusion that these amounts do not outline outstanding debts owed by founders but are considered advance dividends that should be accounted for under equity due to treating founders as owners rather than third parties, ZATCA replies by stating that the classification of this item in the financial statements is advance payments from some shareholders, and it is not a deductible item. In addition, Primary Department's assumption that these amounts outline advance dividend payout ratio is unfounded and groundless. Moreover, Dividend payout ratios are only allowed to be deducted upon the actual occurrence of payment. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests upholding its procedure and overturning

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Primary Department's Decision regarding items subject matter of appeal for the aforementioned reasons.

On Monday, 13/07/1443 AH corresponding to 14/02/2022 AD, the Department decided holding remote litigation session for (10) days. Therefore, ZATCA submitted an answer wherein replies to Zakat Payer's appeal. The answer is summed up in that ZATCA insists on validity of Primary Department's Decision that upheld ZATCA procedure regarding the items subject matter of Zakat Payer's appeal. As for Zakat Payer's objection for years from 1427 to 1430, ZATCA states that these years were addressed in Appellate Committee's Decision No. (1603) for 1437, and Zakat Payer filed a grievance before the Administrative Court. In addition, the Administrative Appellate Court issued a ruling thereon. Therefore, ZATCA insists on its argument that the Case cannot be reconsidered as it has already been adjudicated (Principle of *Res Judicata*). Regarding (Ministry of Finance Loan for 1433) item, ZATCA insists on Primary Department's Decision, as it aligns with provisions of Paragraph (5) of Article (4) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH and Paragraph (3) of Article (20) of the same regulations. Regarding (Derecognizing Amounts Related to CWIP), ZATCA insists on Primary Department's Decision, as it aligns with Paragraph (2) of Article (4) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH and Paragraph (3) of Article (20) of the same regulations. Regarding (Accumulated Losses) item, ZATCA insists on Primary Department's Decision, as it aligns with Paragraph (9) of Article (4) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. Moreover, ZATCA requests the Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision regarding the items subject matter of appeal for the aforementioned reasons. In addition, Zakat Payer submitted an answer summarized in that Zakat Payer requests dismissing ZATCA appeal and upholding Primary Department's Decision regarding the items subject matter of ZATCA appeal.

On Wednesday, 27/08/1443 AH corresponding to 30/03/2022 AD, since Zakat Payer submitted a copy of the petition filed before BoG dated 29/07/2019 AD, the Department asked Zakat Payer, for the second time, to provide BoG ruling regarding its petition within (7) days from that date. Therefore, Zakat Payer submitted some Documents.

On Sunday, 28/10/1443 AH corresponding to 29/05/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer and ZATCA, the Department found that the conditions for considering appeal were met in form as stipulated by the relevant laws, regulations and Decisions. Therefore, the two appeals are accepted in form due to the fact of being filed by parties having capacities and within the statutory period.

On Merits: As for Zakat Payer's appeal regarding (Company's Objection for years from 1427 to 1430) item, Zakat Payer's appeal involves the fact that Primary Department did not consider its objection on the ground that the Appellate Committee rendered a Decision regarding such years, despite the fact that Zakat Payer submitted a petition to BoG against ruling rendered regarding the appeal related to this matter. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. The Department found that

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Appellate Committee's Decision No. (1603) for 1437 was rendered and upheld by BoG ruling in Administrative Case No. (12837) for 1437, which became final. Therefore, the Department found that the Case cannot be reconsidered regarding this matter, as it has already been adjudicated in accordance with Paragraph (1) of Article (76) of the Law of Civil Procedure.

On Merits: As for Zakat Payer's appeal regarding (Ministry of Finance Loan for 1433) item, Zakat Payer's appeal involves objection to Primary Department's Decision that upheld ZATCA procedure outlined in adding this item to zakat base, and claims that the remaining part of loan added to zakat base was not used to finance long-term assets and did not complete a full year. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of appeal, it is noted that the inclusion of the Ministry of Finance loan in appealed item was not due to the passage of a full year. The loan was obtained during the year in accordance with loan agreement. Since ZATCA did not provide a direct link between that loan and any asset deducted from zakat base, which could serve as a ground for disregarding Zakat Payer's declaration. Furthermore, the Department that rendered the Decision grounded its Decision to dismiss Zakat Payer's objection on Zakat Payer's failure to submit supporting Documents, without clarifying the missing Documents or what could have been requested from Zakat Payer. Since the principal rule is to accept Zakat Payer's declaration unless evidence suggests otherwise, and since ZATCA did not, in its Documents to either Primary Department or in response to Zakat Payer's appeal, elaborate how it came up with amounts different from those declared by Zakat Payer. Therefore, this Department accepts Zakat Payer's appeal and overturns Primary Department's Decision in this regard.

As for Zakat Payer's appeal regarding (Derecognizing Amounts Related to CWIP for years from 1431 to 1433) item, Zakat Payer's appeal involves Zakat Payer's objection to Primary Department's Decision that upheld ZATCA procedure outlined in adding this item to zakat base. In addition, Zakat Payer claims that CWIP balance outlines expenses incurred by the Company in developing lands, construction works and others. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute, the Department found that the audited financial statements are presumed to be accurate, and that this Department finds no evidence to contradict what has been elaborated in such statements. Since zakat assessment for Zakat Payers based on their official accounts requires observing principle of budget balance, and that rejecting deduction of a specific capital asset requires either not adding its financing or that ZATCA calculates zakat using the direct method, which includes only zakatable assets. Since ZATCA did not follow any of these alternatives when it rejected deducting item in question, Zakat Payer's statement is presumed to be correct. Therefore, the Department accepts Zakat Payer's appeal and overturns Primary Department's Decision in this regard.

On Merits: As for Zakat Payer's appeal regarding (Accumulated Losses) item, Zakat Payer's appeal involves objection to Primary Department's Decision that upheld ZATCA procedure outlined in adding this item to zakat base, and claims that the carried forward losses shall be deducted pursuant to Company's financial statements, rather than ZATCA assessment. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute, the Department found that Zakat Payer is requesting to be accounted based on the financial statements, while ZATCA made the assessment based on its adjusted assessments. Having taken cognizance of ZATCA amendments to accounting profit for each year in

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question, the Department found that the amendments included addition of depreciation variances, as well as adding provisions for each year in question, in addition to adding profits from the sale of property and equipment for 1431. Since the depreciation variances and formed provisions are temporary variances between the accounting profit and adjusted profit for zakat purposes, which Zakat Payer is entitled to request for their deduction from its zakat base when realized or paid, in accordance with zakat accounting principles. Therefore, ZATCA procedure of adding depreciation variances and formed provisions to losses is valid. As for adding profit of property and equipment sale for 1431: Since this procedure resulted in increased loss amount and did not result in decreased loss, it does not affect Zakat Payer's objection to ZATCA procedure. Since Zakat Payer's objection was regarding the increased zakat base compared to data included in Zakat Payer's declaration. Therefore, this Department dismisses Zakat Payer's appeal and upholds Primary Department's Decision regarding this item.

As for ZATCA appeal regarding the form of Zakat Payer's appeal: Having taken cognizance of ZATCA appeal and request for dismissing the Case in form, in addition to its reliance on Article (2) of Tax Dispute and Violation Committee Procedures. Since it is established from Case file that the dispute subject matter of appeal was before effectiveness of such Procedures. Therefore, this Department dismisses ZATCA appeal in this regard.

As for ZATCA appeal regarding (Amounts Payable by Some Founders for years from 1431 to 1433) item, the Department found that ZATCA appeal involves adding amounts to zakat base because they are loans, and that Primary Department's conclusion of considering such amounts as dividends is invalid, as the classification of this item in the financial statement was under a non-deductible item. In addition, Primary Department's assumption is unfounded and groundless. Moreover, dividend payout ratios are only allowed to be deducted upon the actual occurrence of payment. On the other hand, Zakat Payer requests dismissing ZATCA appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute, Case file, Documents and arguments included therein, the Department found that Note No. (5) to the financial statements shows that advance payments to some founders outline amounts paid to some landlords in return for lost revenues due to cessation of their activities and operations. In addition, these amounts are to be recovered by deduction from their dividend payout ratio. Thereupon, the Department concludes that ZATCA position is correct. Therefore, this Department dismisses ZATCA appeal and upholds Primary Department's Decision in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal filed by Zakat Payer (... Company), C.R No. (...), TIN (...) and appeal filed by ZATCA, against First Department for Determination of Income Tax Violations and Disputes Jeddah Decision No. (IZJ-2021-883) rendered in Case No. (ZW-22993-2020) regarding zakat assessment for years from 1427 to 1433.

Second: On Merits:

1. Inadmissibility of hearing Zakat Payer's Appeal regarding (Company's Objection for years from 1427 to 1430) item due to *res judicata* rule and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah according to reasons and Grounds stated herein.
2. Accept Zakat Payer's appeal regarding (Ministry of Finance Loan for 1433) item and overturn the Decision rendered by the First Department for Determination of Income

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Tax Violations and Disputes in Jeddah according to reasons and Grounds stated herein.

3. Accept Zakat Payer's appeal regarding (Derecognizing Amounts Related to CWIP for years from 1431 to 1433) item and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah according to reasons and Grounds stated herein.
4. Dismiss Zakat Payer's appeal regrading (Accumulated Losses) item and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah according to reasons and Grounds stated herein.
5. Dismiss ZATCA appeal regarding (Amounts Payable by Some Founders for years from 1431 to 1433) item and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah according to reasons and Grounds stated herein.

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Decision No.: IR-2022-201
Case No.: Z-28234-2020

Keywords
Zakat - Accounts - Balances of subcontractors - Statutory Reserve at the Beginning of Period - Adding Short-term Loans to Zakat Base

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (ISZR-2020-139) regarding zakat assessment for 2017 in connection with (Balances of Subcontractors) item, (Defendant's Error in Calculating Statutory Reserve at the Beginning of Period) item and (Adding Short-term Loans to Zakat Base) item. Zakat Payer's appeal involves filing an objection to items amended by ZATCA. However, ZATCA website did not accept such objection due to a previous objection regarding the same year. Therefore, the Department accepts the appeal and remands the Case.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal filed on .. ../... corresponding to ../../... by …, holder of National ID No (...), in his capacity as Appellant Company's attorney under POA No.(…), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-139) rendered in Case No. (Z-7975-2019) regarding zakat assessment for 2017 filed by Appellant against ZATCA. Primary Department's Decision states:

First: In form:

1. Accept the Case filed by Plaintiff (...), C.R. No. (...), regarding (Decreasing Other Expenses by the Amount of Zakat Provision) and (Not Deducting Overdraft of an Affiliated Company and Overdraft of a Subsidiary from Zakat Base) items.
2. Dismiss the Case filed by Plaintiff regarding (Balances of Subcontractors) item due to the fact of being prematurely filed.
3. Dismiss the Case filed by Plaintiff regarding (Defendant's Error in Calculating Statutory Reserve at the Beginning of Period) item due to the fact of being prematurely filed.
4. Dismiss the Case filed by Plaintiff regarding (Adding Short-term Loans to Zakat Base) item due to the fact of being prematurely filed.

Second: On merits:

1. Establish resolution of the dispute regarding (Decreasing Other Expenses by the Amount of Zakat Provision) item.

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2. Dismiss the Case regarding (Not Deducting Overdraft of an Affiliated Company and Overdraft of a Subsidiary from Zakat Base) item.

Since Zakat Payer (... Company) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming the following: Regarding (Balances of Subcontractors) item, (Defendant's Error in Calculating Statutory Reserve at the Beginning of Period) item and (Adding Short-term Loans to Zakat Base) item, Zakat Payer preliminarily objects to zakat assessment for 2017, despite the fact that the above items were not amended by ZATCA. Thereafter, ZATCA amended the above-mentioned items. In addition, Zakat Payer stated that it attempted to object to such items, but ZATCA e-system did not accept objection filing due to a previous objection regarding the same year, and attached a screenshot illustrating the same. Regarding (Overdraft of an Affiliated Company and Overdraft of a Subsidiary from Zakat Base) item, Zakat Payer claims that the amount of SAR 65,199,829 shall not be included in zakat base by its type and analysis as follows: SAR 56,350,169 was an advance payment to Company Owner, Eng. …, for … Enterprise (Affiliated Company), who is Owner of … Company. It should be noted that there are retained earnings, and Sharia principle stipulates that partner's overdraft shall be deducted within the limits of retained earnings. SAR 8,849,653 that outlines the value of investment in ... Company in which the Company owns (60%), and this amount has already been subject to Zakat. Thereupon, Zakat Payer requests overturning Primary Department's Decision regarding the items subject matter of appeal and requests the Department to consider its Case on merits regarding the items that were dismissed in form for the aforementioned reasons.

Since the Department decided opening of pleadings, ZATCA submitted an answer dated ../../... corresponding to ../../... wherein replies to Zakat Payer's appeal, by reiterating its previous position presented before Primary Department. Regarding letter No. (…) stated by Zakat Payer, it did not include amendments to new items, and ZATCA issued a new invoice that included the amount due after considering objection. In addition, Zakat Payer's claim about adding new items is invalid. As for Zakat Payer's appeal regarding (Balances of Subcontractors) item, (Defendant's Error in Calculating Statutory Reserve at the Beginning of Period) item and (Adding Short-term Loans to Zakat Base) item, ZATCA insists on Primary Department's Decision as it aligns with Paragraph (1) of Article (22) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. As for Zakat Payer's appeal regarding (Not Deducting Overdraft of an Affiliated Company and a Subsidiary) item, ZATCA insists on its position presented before Primary Department, as its Decision aligns with Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. Moreover, Zakat Payer's arguments do not differ from what previously submitted, to which ZATCA has already answered at that time. Furthermore, ZATCA requests the Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On ....., dated... /.. /...., corresponding to... /.. /..., the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On ....., dated... /.. /...., corresponding to... /../..., and since the General Secretariat of Zakat, Tax and Customs Committees stated that Zakat Payer received Primary Department's Decision on .. /.. /…, and Zakat Payer filed its appeal on .. /.. /..., this Department asked Zakat Payer to provide evidence on filing appeal within the statutory

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period of 30 days from the date of receiving Primary Department's Decision within (7) days from that date. Therefore, Zakat Payer submitted some Documents.

On … dated../../.. AH corresponding to ../../…, as for Zakat Payer's appeal regarding (Not Deducting Overdraft of an Affiliated Company and Overdraft a Subsidiary from Zakat Base) item, the Department asked Zakat Payer to clarify its claim concerning this item, detailing nature of each contested amount and reason for objection, along with providing audited financial statements that show components of the relevant balances. In addition, the Department asked Zakat Payer to provide the correspondences between Zakat payer, subsidiary and affiliated company regarding these amounts. Moreover, the Department asked Zakat Payer to submit the memorandum of association of the subsidiary and supporting Documents for advance payment made to affiliated company within 15 days from that date. Therefore, Zakat Payer submitted some Documents.

On … dated../../.. AH corresponding to ../../…, having taken cognizance of Documents submitted by Zakat Payer, the Department found that the submission was some selected pages from Zakat Payer's financial statements, which did not give a full picture of the amounts in question, in particular Note No. (7) that Zakat Payer submitted a copy thereof as part of the Documents, had no reference number in the financial statement, nor was it listed under any other name or balance in such statement. Therefore, the Department asked Zakat Payer to provide complete audited financial statements, along with a reconciliation between the amount that Zakat Payer seeks to deduct and the amounts shown in the balance sheet. Moreover, the Department asked Zakat Payer to provide the financial statements of both the subsidiary and affiliated company, along with a reconciliation of the amounts that Zakat Payer seeks to deduct, showing these amounts in the financial statements of those companies and proving that they were subject to zakat in those companies. In addition, the Department asked Zakat Payer to provide evidence that Zakat Payer submitted zakat declarations for those companies based on their actual accounts, rather than using estimate method within (7) days from that date.

On .., .. /../.. corresponding to .. /../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Regarding (Balances of Subcontractors) item, (Defendant's Error in Calculating Statutory Reserve at the Beginning of Period) item and (Adding Short-term Loans to Zakat Base) item, Zakat Payer's appeal involves the fact that Zakat Payer filed an objection to items amended by ZATCA, but ZATCA e-system did not accept objection filing due to a previous objection regarding the same year. On the other hand, ZATCA requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute, the Department found that Zakat Payer objected to zakat assessment for 2017. Then, ZATCA amended its assessment regarding such item. Since Zakat Payer claims attempting to object to such amendments, but ZATCA e-system did not accept the same due to a previous objection filed by Zakat Payer for the same year. Since Zakat Payer submitted a screenshot of ZATCA e-system that shows failure to file an objection to such amendments. Since this Department concluded that it is not required to file a new objection to amendments made by ZATCA

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to its assessment for the same year, as long as Zakat Payer preliminarily objected thereto. Therefore, this Department overturns the Decision rendered by the Second Department for Determination of Income Tax Disputes and Violations in Riyadh and remands the Case regarding such items for reconsideration on merits.

As for Zakat Payer's appeal regarding (Not Deducting Overdraft of an Affiliated Company and Overdraft a Subsidiary from Zakat Base) item, the Department found that Zakat Payer's appeal involves objection to subjecting this item amount to zakat more than once to avoid double taxation. On the other hand, ZATCA requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute and Documents included in Case file, this Department found that the amount of SAR 56,350,169 outlined in advance payments to an affiliated company is an amount payable by a sole proprietorship owned by one of the partners and not an affiliated company of Zakat Payer. Since Zakat Payer did not provide evidence on delay by debtor or prove insolvency. Therefore, according to the applicable fatwas, Zakat Payer is not entitled to exclude this amount from zakat base. As for the amount of SAR 8,849,653 that Zakat Payer argues to outline advance payments to an affiliated company: Since it turns out that Zakat Payer owns (60%) of such company. Therefore, Zakat Payer is entitled to exclude (60%) of the amount payable by the affiliated company from its zakat base. Thereupon, this Department amends Primary Department's Decision, by dismissing Zakat Payer's appeal regarding the amount payable by the affiliated company and upholding exclusion of (60%) of the amount payable by the subsidiary from its zakat base. In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (… Company), C.R. No. (…), TIN (…), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISZR-2020-139) rendered in Case No. (Z-7975-2019) regarding zakat assessment for 2017.

Second: On Merits: 1. Accept Zakat Payer's appeal regarding (Balances of Subcontractors) item, overturn the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case to the Department for reconsideration of this item on merits according to reasons and Grounds stated herein.

2. Accept Zakat Payer's appeal regarding (Defendant's Error in Calculating Statutory Reserve at the Beginning of Period) item, overturn the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case to the Department for reconsideration of this item on merits according to reasons and Grounds stated herein.

3. Accept Zakat Payer's appeal regarding (Adding Short-term Loans to Zakat Base) item, overturn the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for consideration of this item on merits according to reasons and Grounds stated herein.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-202
Case No. I-32442-2020

Keywords
Zakat - Accounts - Internal and External Purchases - Variances - Zakat Payer's Books and Declarations

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IFR-2020-304) regarding zakat assessment for 2017. Zakat Payer's appeal involves claim that Zakat Payer filed an objection to items amended by ZATCA subject matter of the Case after being filed. In addition, ZATCA added internal purchases as external purchases and calculating zakat on this basis. Moreover, the objection was filed electronically on 29/04/2019 AD along with the balance sheet, and the amount was paid based on the balance sheet uploaded to the Ministry of Commerce website. However, ZATCA rejected objection. Therefore, the Department dismisses the appeal and upholds Primary Department's Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal filed on ../../... /... corresponding to ../.. /... by ..., holder of National ID No. (...), in his capacity as Manager of Appellant Company, under Company's memorandum of association, against Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-304) rendered in Case No. (I-7102-2019) regarding zakat assessment for 2017 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss objection filed by Plaintiff (... Company), TIN (…), to Defendant (ZATCA) Decision regarding zakat assessment subject matter of the Case.

Since Zakat Payer (… Company) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming that ZATCA amended the declaration subject matter of the Case after being filed. In addition, ZATCA added internal purchases as external purchases and calculated zakat on this basis. Moreover, the objection was filed electronically on 29/04/2019 AD along with the balance sheet, and the amount was paid based on the balance sheet uploaded to the Ministry of Commerce website. However, ZATCA rejected the objection. Therefore, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal for the aforementioned reasons.

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Since the Department decided opening of pleadings, ZATCA submitted an answer dated 22/08/1442 AH corresponding to 04/04/2021 AD wherein replies to Zakat Payer's appeal. The answer is summed up in that ZATCA reiterates its previous position submitted before Primary Department. Moreover, Zakat Payer's arguments do not differ from what previously submitted, to which ZATCA has already answered at that time. Furthermore, ZATCA requests the Department to dismiss any new Documents that were not submitted during examination and objection stages. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On Tuesday, 29/06/1443 AH corresponding to 01/02/2022 AD, the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On Wednesday, 15/07/1443 AH corresponding to 16/02/2022 AD, having taken cognizance of Case file, the Department asked Zakat Payer to submit a report issued by a chartered accountant that elaborates nature of variances in external purchases between data included in customs report and amounts recognized in Zakat Payer's books and declarations. In addition, the report shall elaborate reasons for any variances, if any, and provide the correct amounts for both external and internal purchases that shall be included in Zakat Payer's declarations for the two years in question within (30) days from that date.

On Sunday, 24/08/1443 AH corresponding to 27/03/2022 AD, having taken cognizance of Case file, the Department asked Zakat Payer, for the second time, to submit a report issued by a chartered accountant that elaborates nature of variances in external purchases between data included in customs report and amounts recognized in Zakat Payer's books and declarations. In addition, the report shall elaborate reasons for any variances, if any, and provide the correct amounts for both external and internal purchases that shall be included in Zakat Payer's declarations for the two years in question within (30) days from that date. Therefore, Zakat Payer submitted some Documents.

On Wednesday, 15/10/1443 AH corresponding to 18/05/2022 AD, having taken cognizance of Zakat Payer's answer to Department's order, since this answer has no relation to Department's order. Therefore, the Department asked Zakat Payer, for the third time, to submit a report issued by a chartered accountant that elaborates nature of variances in external purchases between data included in customs report and amounts recognized in Zakat Payer's books and declarations. In addition, the report shall elaborate reasons for any variances, if any, and provide the correct amounts for both external and internal purchases that shall be included in Zakat Payer's declarations for the two years in question within (7) days from that date. However, Zakat Payer did not provide the required Documents.

On Monday, 29/10/1443 AH corresponding to 30/05/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Since Zakat Payer's appeal involves objection to Primary Department's Decision that upheld ZATCA procedure outlined in handling internal purchases as

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external purchases. On the other hand, ZATCA requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute and Documents included in Case file. Since the dispute relates to Documents. Since Zakat Payer did not provide Documents that support its Case before this Department. Since this Department found that Primary Department's conclusion subject matter of appeal is valid, and that the reasons upon which the Decision was based are sufficient to uphold it. Therefore, this Department dismisses Zakat Payer's appeal and upholds Primary Department's Decision in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Company), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (IFR-2020-304) rendered in Case No. (I-7102-2019) regarding zakat assessment for 2017.

Second: On Merits:

Dismiss appeal filed by Zakat Payer and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh according to reasons and Grounds stated herein.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-203
Case No. Z-29772-2020

Keywords
Zakat - Accounts - Actual Financial Position - Amended Financial Statements - Financial Statement-Based Assessment Prior to Amendment

Abstract

The Appellant (Zakat Payer) filed this appeal seeking cancelation of Primary Department Decision No. (IRF-2020-116) regarding zakat assessment for 2007 to 2012, since Zakat Payer's appeal lies in objection to Primary Department's upholding of ZATCA's procedure regarding negligence of assessment based on amended financial statements. Having examined contents of case file, and since Zakat Payer's request lies in canceling ZATCA's assessment and relying on his zakat declarations based on amended financial statements. Since ZATCA did not object to reasonableness of those amendments, and since it was found that those audited financial statements reflect Zakat Payer's actual financial position. Therefore, the Department accepts the appeal and overturns Primary Department's Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

The Department convened to consider appeal filed on ../../...., corresponding to ../../..., by ....., holding National ID No. (...), in his capacity as attorney of Appellant Company under POA No. (...) against the First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IRF-2020-116) delivered in Case No. (Z-174-2018) related to zakat assessment for 2017 to 2012, filed by Appellant against ZATCA.
Primary Department's Decision ruled as follows:
First: Dismiss the objection raised by Plaintiff/ ..... Company (TIN .....) to Decision of Defendant/ ZATCA regarding item of retained earnings and statutory reserve subject of the case.
Second: Dismiss the objection raised by Plaintiff/ ..... Company (TIN .....) to Decision of Defendant/ ZATCA regarding net profit in 2007.
Third: Dismiss the objection raised by Plaintiff/ ..... Company (TIN .....) to Decision of Defendant/ ZATCA regarding deduction of the lands sold to each of ..., for years from 2007
to 2012, as explained in the reasons.
Fourth: Abolish Decision of Defendant/ZATCA against Plaintiff/ ..... Company (TIN .....) regarding investment land deduction for 2007 to 2011, as explained in the reasons.

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Fifth: Dismiss the objection raised by Plaintiff/ ..... Company (TIN .....) to Decision of Defendant/ ZATCA regarding item of retained earnings resulting from sale of lands subject of the case.

Since Zakat Payer (... Company) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject of appeal, claiming that the basis for zakat calculation of any establishment is the actual financial position which was not reflected in financial statements as a result of irregular, illegal and incorrect transactions and were corrected in the amended financial statements. Moreover, final judicial rulings reveal and confirm invalidity of the Company's previous position. It is also clear that the Primary Department ignored in its Decision that all lands on which transactions took place are part of one land owned by the company under an undivided deed that is mortgaged in full to a bank in exchange for a loan. This loan is subject to zakat base and it is not permissible to dispose of it by sale or any other transactions. Furthermore, the Company's AOA does not include real estate and land sale activity. Therefore, all that was done is illegal acts by the former Board Chairman, as he entered these assets owned by him into the company in exchange for increasing the capital and obtaining shares, then he attempted to acquire these assets again in an irregular manner, which caused harm to the Company by issuing incorrect financial statements that do not reflect the actual position, and losses were incurred for more than (10) years, which necessitated issuance of amended financial statements. ZATCA was addressed more than once with a request to approve amended statements to no avail. ZATCA also calculated the short-term loan and treated it as a long-term loan and ignored Company's failure to pay due to its poor financial position. Accordingly, Zakat Payer demands that Primary Department's Decision subject to the appeal be overturned for reasons stated above.

On Tuesday, 29/06/1443 AH, corresponding to 01/02/2022 AD, the Department decided to convene an electronic pleading hearing for 10 days. ZATCA submitted a replication in which it responded to Zakat Payer's appeal, in which it confirms its point of view submitted before Primary Department. What Zakat Payer raised does not depart from what was previously submitted and responded by ZATCA in a timely manner. Zakat Payer did not submit amended financial statements for 2006 to 2012, or a declaration explaining amendments during that period to him or to Primary Committee, which is the basis of dispute regarding assessment. Zakat Payer submitted a letter dated 22/05/1439 AH stating his desire to submit amended financial statements and set a date for their presentation by chartered accountant without clarifying the reasons preventing their submission, noting that statements were issued on 04/05/1439 AH. Therefore, ZATCA assessed Zakat Payer according to information available to it and in accordance with contents of financial statements, without any change to the contrary. Since Zakat Payer objected during the specified period, he did not submit his declaration immediately after the end of fiscal year, which the Law specified as 120 days in accordance with Article 20.2 of the Implementing Regualtions for the Collection of Zakat issued in 1438 AH. In addition, for the purposes of zakat, zakat base is calculated in accordance with Zakat Payer's current situation and with assets and liabilities shown by financial statements at the end of zakat year subject to the objection. ZATCA requests that no Documents not submitted during the examination and objection stages be accepted. Accordingly, ZATCA adheres to validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and that Primary Department's Decision be upheld for reasons stated above.

On Tuesday, 01/11/1443 AH corresponding to 31/05/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its

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merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

On Tuesday, 29/06/1443 AH corresponding to 01/02/2022 AD, the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On Wednesday, 15/07/1443 AH corresponding to 16/02/2022 AD, having taken cognizance of Case file, the Department asked Zakat Payer to submit a report issued by a chartered accountant that elaborates nature of variances in external purchases between data included in customs report and amounts recognized in Zakat Payer's books and declarations. In addition, the report shall elaborate reasons for any variances, if any, and provide the correct amounts for both external and internal purchases that shall be included in Zakat Payer's declarations for the two years in question within (30) days from that date.

On Sunday, 24/08/1443 AH corresponding to 27/03/2022 AD, having taken cognizance of Case file, the Department asked Zakat Payer, for the second time, to submit a report issued by a chartered accountant that elaborates nature of variances in external purchases between data included in customs report and amounts recognized in Zakat Payer's books and declarations. In addition, the report shall elaborate reasons for any variances, if any, and provide the correct amounts for both external and internal purchases that shall be included in Zakat Payer's declarations for the two years in question within (30) days from that date. Therefore, Zakat Payer submitted some Documents.

On Wednesday, 15/10/1443 AH corresponding to 18/05/2022 AD, having taken cognizance of Zakat Payer's answer to Department's order, since this answer has no relation to Department's order. Therefore, the Department asked Zakat Payer, for the third time, to submit a report issued by a chartered accountant that elaborates nature of variances in external purchases between data included in customs report and amounts recognized in Zakat Payer's books and declarations. In addition, the report shall elaborate reasons for any variances, if any, and provide the correct amounts for both external and internal purchases that shall be included in Zakat Payer's declarations for the two years in question within (7) days from that date. However, Zakat Payer did not provide the required Documents.

On Monday, 29/10/1443 AH corresponding to 30/05/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, since Zakat Payer's appeal lies in objection to Primary Department's upholding of ZATCA procedure regarding negligence to assess Zakat Payer on the basis of amended financial statements, while ZATCA argued that it requests that Zakat Payer's appeal be dismissed and the Primary Department's Decision be upheld. Having examined contents of case file, and since Zakat Payer's request lies in cancelation of ZATCA's assessment in addition to relying on zakat declarations based on amended financial statements. Since ZATCA did not object to reasonableness of those amendments, and since it was found that those audited financial statements reflect Zakat Payer's actual financial position, and since Zakat Payer submitted supporting Documents supporting Grounds on which he

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relied in reissuing the financial statements audited by the chartered accountant. Since ZATCA did not provide evidence that can be relied upon to reverse the reasons provided by Zakat Payer to reissue financial statements, including what clarifies existence of a dispute before judicial authorities regarding disputed lands. Since the matter was as mentioned, and since the basis for calculating zakat to Zakat Payers relies on supporting evidence and Documents, and since Zakat Payer submitted audited financial statements for disputed years, and ZATCA did not challenge those statements and their contents, which determines Zakat Payer's right to calculate his zakat base based on what is stated in the audited financial statements. Therefore, the Department concludes to cancel ZATCA's assessment Decisions based on financial statements prior to amendment, and to overturn Primary Department's Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer/ ..... Company, under C.R NO. (.....). TIN No. (.....), against the First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IRF-2020-116) delivered in Case No. (Z-174-2018) regarding zakat assessment for years 2007 to 2012.

Second: On Merits:

Accept Zakat Payer's appeal and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh according to reasons and Grounds stated herein.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-204
Case No. Z-29933-2020

Keywords
Zakat - Accounts - Accumulated Losses - Delay In Issuing Zakat Assessment - Zakat Payer Declaration - Assessment on Retained Losses

Abstract

The Appellant (Zakat Payer) claims to abolish Primary Department's Decision No. (IZD-2020-204), on Zakat assessment of 2018, with respect to item of (Accumulated Losses). Since Zakat Payer's appeal lies in objection to Primary Department's upholding of ZATCA's procedure on negligence of his claim for approval of adjusted carried forward losses according to zakat assessments issued by ZATCA for years preceding the disputed year. Having examined contents of case file, and since the outcome of dispute related to determining whether ZATCA will modify carried forward losses based on a future matter that has not been achieved at the time of assessment. Given existence of a dispute between the parties in determining that amount, based on a dispute in a number of items affecting it and related to zakat assessment for a previous year(s), which are still subject to objection by Zakat Payer until the date of consideration of this year's assessment. Therefore, the Department accepted the appeal and amended Primary Department's Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal filed on .. /.. /...., corresponding to ../.. /...., by ....., holding National ID No. (...) in his capacity as the attorney for the Appellant Company, by virtue of POA no. (...), against First Department for Determination of Income Tax Violations and Disputes in in Dammam Decision No. (IZD-2020-204) in Case No. (Z-2216-2020) regarding zakat assessment for 2018 filed by the Appellant against ZATCA. The Primary Decision ruled as follows:

In from: Accept the case filed by the Plaintiff/ ..... Company, under C.R. No. (...) in form.

On Merits: Dismiss objection of Plaintiff/ ..... Company regarding zakat assessment of 2018.

Since Zakat Payer (... Company) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject to appeal, claiming that, with regard to the item (Accumulated Losses), ZATCA delayed the issuance of zakat assessment and that he wishes to approve the adjusted carried-forward losses under zakat assessments issued by ZATCA for (2015, 2016, 2017) to deduct the same from Zakat base in 2018 amounting to SAR (4,893,562). ZATCA stated in its replication uploaded to the

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General Secretariat of Tax Committees' system that it will take this into account after conducting assessment for previous years. Adjusted carried-forward losses of ZATCA assessment will be deducted. It is also unfair to not allow the company to deduct losses due to the delay in issuing assessments. Accordingly, Zakat Payer the demands that Primary Department's Decision subject of the appeal be overturned for the reasons stated above.

Since the Department decided to open up court proceedings, ZATCA submitted a repliaction dated 28/02/1443 AH, corresponding to 05/01/2021 AD, in which it responded to Zakat Payer's appeal, in which it confirms its point of view submitted before the Primary Department. Moreover, what Zakat Payer raised does not depart from what was previously submitted and responded by ZATCA in a timely manner. ZATCA did not deduct the accumulated losses in accordance with 2018 financial position statement, since carried-forward losses being deducted are carried-forward losses in accordance with ZATCA's assessments according to Article 4.9 of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. Accordingly, accumulated losses deducted from the base are carried-forward losses according to ZATCA's assessment for previous years. ZATCA will take this into account after conducting assessment for previous years. Adjusted carried-forward losses will be deducted according to ZATCA's assessments in the case of carried-forward losses, in accordance with the aforementioned legal instructions. Therefore, ZATCA adheres to validity and integrity of its procedure and request to dismiss Zakat Payer's appeal and uphold Primary Department Decision for the above reasons.

On Tuesday, 29/06/1443 AH corresponding to 01/02/2022 AD, the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On Tuesday, 01/11/1443 AH corresponding to 31/05/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, with regard to Zakat Payer's appeal regarding the item (Accumulated Losses), since Zakat Payer's appeal lies in objection to Primary Department's upholding of ZATCA's procedure regarding negligence of its claim to approve adjusted carried-forward losses pursuant to zakat assessments issued by ZATCA for years preceding disputed year, while ZATCA argued that it requests to dismiss Zakat Payer's appeal and uphold Primary Department's Decision. Having considered subject of the dispute, having examined papers contained in the case file, and since outcome of dispute related to determining whether ZATCA would modify carried-forward losses was based on a future matter that was not realized at the time of assessment. Given existence of a dispute between the parties in determining that amount, based on a dispute in a number of items affecting it and related to zakat assessment for a previous year(s), which are still subject to objection by Zakat Payer until the date of consideration of this year's assessment. Since the established principle is to take Zakat Payer's declaration into account, it is necessary to conduct assessment to Zakat Payer regarding those retained losses to the amount stipulated in its declaration, so that Zakat Payer's assessment for the year in dispute shall

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not depend on occurrence of unspecified future matters. ZATCA retains the right to demand Zakat Payer for any zakat differences resulting from determining amounts of retained losses to determine their amount after amending the final assessment for each year in which ZATCA demands Zakat Payer to collect differences. Therefore, the Department concludes to amend the Primary Department's Decision regarding the item under consideration, to calculate assessment on Zakat Payer when determining his zakat base by taking into account what was stated in his declaration regarding determining deducted amount of retained losses for 2018, with the right of ZATCA to calculate any zakat differences that may result from adjusting balance of retained earnings for 2018 as a result of assessment on Zakat Payer for previous years, and Zakat Payer's right to object to such calculation.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer/ ..... Company, under CR. NO. (.....). TIN No. (.....), against the First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-204) delivered in Case No. (Z-2216-2020) in connection with Zakat assessment for 2018.

Second: On Merits:

Accept Zakat Payer's appeal and amend the First Department for Determination of Income Tax Violations and Disputes in Dammam Decision, by deciding to take into account what was stated in Zakat Payer's declaration regarding determining the deducted amount of carried-forward losses for 2018, in accordance with reasons and Grounds contained in this Decision.

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Decision No. IR-2022-207
Case No. Z-33813-2021

Keywords
Zakat - Accounts - Other Capital Contributions - Investments - Investment Losses - Short-Term Loans

Abstract

Appellant (Zakat Payer) filed this appeal seeking cancelation of Primary Department's Decision No. (IZD-2020-232), regarding zakat assessment of 2014, with regard to (Investment) item, since Zakat Payer's appeal lies in objection to Primary Department's upholding of ZATCA's procedure of not deducting this item from zakat base and claims that it must be deducted as long-term investments. Since Zakat Payer submitted his audited financial statements proving correction of the error in the disputed year regarding not including investments in financial statements in the disputed year, and the item (other capital contributions), since Zakat Payer's appeal lies in objection to Primary Department's upholding of ZATCA's procedure of adding full amount of this item to zakat base, and claims that amounts that a year has passed thereon must be deducted. Having reviewed Zakat Payer's financial statements in the disputed year, the Department did not find the amount that ZATCA claimed it represents the total capital contributions amounting to SAR (24,772,596). In the light of the foregoing, it was not possible to extract the same from any other sum disclosed in the financial statements, and the item (investment losses and short-term loans), since Zakat Payer's appeal lies in objection to ZATCA's procedure of adding these two items in zakat base and the Department's failure to address his objection to these two items. Therefore, the Department found that Primary Department did not settle the dispute over these items, which would render the dispute related to these two items unsettled on their merits, and would enable Zakat Payer to litigate in two degrees. Therefore, the Department accepted the appeal regarding the item (Investments) and the item (Other Capital Contributions) and return the case regarding the items (Investment Losses) and (Short-Term Loans).

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

To consider the appeal filed on .. /.. /...., corresponding to .. /.. /..., by ...., holding National ID No. (...), in his capacity as the attorney for the Appellant Company, by virtue of POA no. (...), against First Department for Determination of Income Tax Violations and Disputes in in Dammam Decision No. (IZD-2020-232) delivered in Case No. (Z-10151-2019) regarding zakat assessment for 2018 filed by the Appellant against ZATCA. The Primary Decision ruled as follows:

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In from: Accept the case filed by the Plaintiff (..... Company, under C.R. No. (...) and TIN (...) in form.
On Merits:
Reject objection raised by Plaintiff (.... Company), under C.R No. (...) and TIN (...) regarding investment item for 2014, according to Grounds of the Decision.
Establish settlement of dispute regarding the item of Asset Depreciation Losses for 2014, in accordance with Grounds of the Decision.
Establish settlement of dispute regarding the item of Import Differences in 2014, in accordance with Grounds of the Decision.
Reject objection raised by Plaintiff (.... Company), under C.R No. (...) and TIN (...) regarding Other Capital Contribution item for 2014, according to Grounds of the Decision.
Since this Decision was not accepted by Zakat Payer (.... company), he submitted a statement of appeal, which contained the following:
Zakat Payer objects to appealed Decision of Primary Department, claiming that with regard to the item (Other Capital Contributions), fixed assets were financed from profits, cash flows and the current account, but capital contributions were used in the Company's operational activities and that a year has passed on the current account in the amount of SAR (4,708,447) and used o finance the assets. With regard to the item (Short-Term Loans and Notes Payable), Zakat Payer claims that a year has not passed on this item and therefore zakat is not due thereon. Regarding the item (Investment losses), Zakat Payer claims that financial statements of 2015 were amended, and error in Note No. (25) in the financial statements for the following year was corrected under the name "other expenses and losses", as it appeared in the comparative year 2014, with a total amount of SAR (3,139,305), and accordingly it must be approved and deducted from zakat base. Regarding the item (Investments), Zakat Payer claims that they are long-term investments that must be deducted from zakat base. Therefore, Zakat Payer demands that appealed Decision of Primary Department tbe overturned for the aforementioned reasons.
On Wednesday, 07/03/1443 AH corresponding to 13/10/2021 AD, the Department decided to convene an electronic pleading hearing for 10 days. ZATCA submitted a replication in which it responded to Zakat Payer's appeal, which stated that Zakat Payer's statement did not deviate from what had been submitted and ZATCA responded to it in a timely manner. Furthermore, with regard to item (Investment losses for 2014), the financial statements did not recognize any investment losses in the income statement and Zakat Payer did not reissue the amended financial statements despite his claim that there was an error in them in violation of Article (1) of the Law of Commercial Books and paragraphs (698) and (699) of Presentation and Disclosure Standard approved by Saudi Organization for Chartered and Professional Accountants (SOCPA), and since Zakat Payer acknowledged the error and did not amend it, which indicates his non-compliance with the aforementioned legal provisions. With regard to the item (Other Capital Contributions for 2014), ZATCA found that capital contributions financed fixed assets, and therefore consideration for financing fixed assets is what was added to the base to meet deducted assets financed by these contributions from the zakat base in accordance with Article (4), Clause (I) of the Implementing Regulation for the Collection of Zakat. Moreover, ZATCA confirms that its Decision is in accordance with the provisions of Implementing Regulation for the Collection of Zakat and has exercised its authority granted pursuant thereto. ZATCA requests that no new Documents submitted by Zakat Payer that were not submitted during examination and objection stages be accepted. ZATCA also requests that no new Documents submitted by Zakat Payer be accepted in accordance with Article (186) of the Law of Procedure before Sharia Courts. Therefore, ZATCA adheres to validity and integrity of its procedure and requests that Zakat Payer's appeal be dismissed and Primary Department's Decision be upheld for the aforementioned reasons.

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On Sunday, 06/11/1443 AH corresponding to 05/06/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, and with regard to Zakat Payer's appeal on the item (Investments), and since Zakat Payer objects to the primary Decision having accepted ZATCA's Decision to not deduct this item from the zakat base, claiming that it should be deducted as long-term investments. ZATCA on its part maintains the validity and soundness of its Decision and requests that Zakat Payer's appeal be dismissed and the primary Decision be upheld. Having considered subject of the dispute, and having examined contents of the case file, and since Zakat Payer submitted his audited financial statements proving correction of the error in the disputed year, regarding not including investments in the financial statements of disputed year. Since ZATCA did not filed an appeal against the financial statements submitted by Zakat Payer. Therefore, it is decided that Zakat Payer is entitled to deduct investments from his zakat base. Accordingly, the Department concludes to accept Zakat Payer's appeal, and overturn Primary Department's Decision regarding this item.

With regard to Zakat Payer's appeal regarding the item (Other Capital Contributions), since Zakat Payer's appeal lies in objection to Primary Department's acceptance of ZATCA's procedure of adding the full amount of this item to zakat base, and he claims that amounts that a year has not passed thereon must be deducted, while ZATCA argued that it upholds validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and that Primary Department's Decision be upheld. Having considered subject of the dispute, and having examined contents of the case file, since Zakat Payer argued before the Department that he did not know source of that item and reasons for its addition, and since ZATCA had no response to Zakat Payer's argument other than to say that it found that capital contributions had been used to finance fixed assets, and since ZATCA did not provide evidence of a direct link between that increase and any fixed asset obtained during the disputed year. Having reviewed Zakat Payer's financial statements for the disputed year, the Department did not find the amount that ZATCA claimed to represent the total capital contributions (24,772,596). In light of the foregoing, and it was not possible to extract it from any other total disclosed in financial statements, making ZATCA's procedure unjustified in a way that allows Zakat Payer to submit a reasoned objection thereto. Therefore, the Department decides to accept Zakat Payer's appeal, and overturn Primary Department Decision regarding this item.

With regard to Zakat Payer's appeal regarding items (Investment Losses) and (Short-Term Loans), since Zakat Payer's appeal lies in objection to ZATCA's procedure of adding this item to zakat base, and the Department's failure to address his objection to these items, while ZATCA argued that it upholds validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and that Primary Department's Decision be upheld. Having considered subject of the dispute, and having perused Primary Department's Decision, the Department found that the Primary Department did not settle dispute on these items, which makes the litigation related to these two items unsettled on

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their merits, and to enable Zakat Payer to litigate on two degrees. Accordingly, the Department concludes to return this case regarding items of investment losses and short-term loans to First Department for Determination of Income Tax Violations and Disputes in Dammam, for consideration in the light of Zakat Payer's objection.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer/ ..... Company, under CR. NO. (.....) TIN No. (.....), against the First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-232) delivered in Case No. (Z-10151-2019) in connection with Zakat assessment for 2018.

Second: On Merits:

1. Accept Zakat Payer's appeal regarding the item (Investments), and overturn the First Department for the Determination of Income Tax Violations and Disputes in Dammam Decision according to reasons and Grounds stated in this Decision.
2. Accept the appeal filed by Zakat Payer regarding the item (Other Capital Contributions) and overturn Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with reasons ans Grounds mentioned therein.
3. Return the case to the First Department for Determination of Income Tax Violations and Disputes in Dammam to consider the item (Investment Losses) on merits, according to reasons and Grounds mentioned therein.
4. Return the case to the First Department for Determination of Income Tax Violations and Disputes in Dammam to consider the item (Short-Term Loans) on merits, according to reasons and Grounds mentioned therein.

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Decision No. IR-2022-208
Case No. Z-29888-2020

Keywords
Zakat - Accounts - Long-Term Advances - Commercial and Other Creditors - Foreign Investments

Abstract

Appellant (Zakat Payer) filed his appeal to object Primary Department's Decision No. (IZD-2020-209), on zakat assessment for 2016, with regard to the items (Long-Term Advances), (Commercial Creditors and Other Creditors and Advance Payments for 2016) and (Foreign Investments), to refute his objection that additional zakat obligation was calculated on the long-term advances, which are in nature an investment in a foreign subsidiary. In confirmation of the foregoing, additional zakat was paid and invested to purchase fixed assets used in income generation, thereby relying on SOCPA regulations. Therefore, the Department accepted Zakat Payer's appeal regarding the items (Long-Term Advances) and (Foreign Investments) and rejected its objection to the item (Commercial and Other Creditors and Advance Payments for 2016).

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

The Department convened to consider appeal filed on ../../...., corresponding to ../../..., by ....., holding National ID No. (...), in his capacity as attorney of Appellant Company under POA No. (...) against the First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-209) delivered in Case No. (Z-8068-2019) related to zakat assessment for 2016, filed by Appellant against ZATCA. Primary Department's Decision ruled as follows:

In from: Accept the case filed by the Plaintiff/ ..... Company, under C.R. No. (...) in form.

On Merits:

1. Reject the objection regarding long-term advances in the amount of SAR (43,045,793).
2. Reject the objection regarding commercial and other creditors and advance payments item for 2016.
3. Reject the objection regarding foreign investments item in .... company (Qatar) in the amount of SAR (7,017,468) and .... company (Oman) in the amount of SAR (890,489).
4. Establish that the dispute with respect to the item of spare parts inventory (inventory provision) has ended.

Since this Decision was not accepted by Zakat Payer (.... company), he submitted a statement of appeal, which contained the following:

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Zakat Payer objects to appealed Decision of Primary Department, claiming that, with regard to the item (Deduction of Long-Term Advances from Zakat Base for 2016 in the Amount of SAR (43,045,793)), zakat additional obligation was calculated on long-term advances which are considered to be an investment in a foreign subsidiary company. In confirmation of the foregoing, additional zakat was paid in the amount of SAR (225,555). Moreover, long-term advances provided to ..... company are in nature an investment in property rights, as he has a share of (49%), and was invested to purchase fixed assets for income generation. According SOCPA regulations, long-term advances are classified as investments, which must be deducted from the base. With regard to the item (Commercial Creditors, Other Creditors, and Advance Payments From Customers), Zakat Payer claims that these amounts are due to suppliers and zakat is not due thereon for not fulfilling the condition of ownership. With regard to the item (Foreign Investments), Zakat Payer claims that audited financial statements of investee companies were submitted, and zakat was paid on the same in the amount of SAR (277,463). Zakat Payer also provided evidence of paying zakat by virtue of a bank notice. Therefore, Zakat Payer claims to overturn appealed Decision of Primary Department for the foregoing reasons.

On Tuesday, 29/06/1443 AH corresponding to 01/02/2022 AD, the Department decided to convene an electronic pleading hearing for 10 days. ZATCA submitted a replication in which it responded to Zakat Payer's appeal, including that, with regard to item (Deduction of Long-Term Advances From Zakat Base), ZATCA upholds Primary Department's Decision, as it is consistent with provisions of Article (4), paragraph (4.B), of the Implementing Regulations for the Collection of Zakat and Fatwa No. (3077/22) of 1426 AH. With regard to the item (Deduction of Investments), ZATCA upholds Primary Department's Decision, as it is consistent with provisions of Article (4), paragraph (4.B), of the Implementing Regulations for the Collection of Zakat, and with regard to the item (Commercial Creditors, Other Creditors and Advance Payments), ZATCA upholds Primary Department's Decision, as it is consistent with provisions of Article (4.5) of the Implementing Regulations for the Collection of Zakat. ZATCA requires that no new requests from the taxpayer be accepted based on Article 186 of the Law of Procedure Before Sharia Courts. Therefore, ZATCA upholds validity and soundness of its procedure and request that Zakat Payer's appeal be dismissed and Primary Department's Decision be upheld for the above reasons.

On Tuesday, 08/11/1443 AH corresponding to 07/06/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, with regard to Zakat Payer's appeal regarding the item (Deduction of Long-Term Advances From Zakat Base), and since Zakat Payer's appeal lies in objection to the Primary Decision having upheld ZATCA's Decision of adding this item to zakat base, and claims that the same must be deducted because they are long-term investments and must be classified as an investment, while ZATCA argued that it adheres to validity and soundness of its Decision and requested that Zakat Payer's appeal be dismissed and the Primary Department's Decision be upheld. Having examined subject of the dispute,

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having perused contents of case file, and since it is established that Zakat Payer calculated zakat on his share of foreign investments, he has the right to deduct loans provided to subsidiaries according to percentage of the investment therein. Therefore, the Department decides to accept Zakat Payer's appeal and overturn the Primary Department's Decision regarding this item.

With regard to Zakat Payer's appeal regarding the item (Commercial Creditors, Other Creditors and Advance Payments From Customers), and since Zakat Payer's appeal lies in objection to the Primary Decision's upholding of ZATCA's Decision of adding this item to zakat base, and claims that the same must be deducted because it did not satisfy the requirement of ownership, while ZATCA argued that it adheres to validity and soundness of its Decision and requested that Zakat Payer's appeal be dismissed and the Primary Department's Decision be upheld. Having examined subject of the dispute, having perused contents of case file, and since credit balances, regardless of their type, are considered a part of zakat base whenever a year has passed thereon. Since ZATCA added the lower balance after comparing balance at the beginning and end of the period, as an indication of the fact that a year has passed on balance added to the base. Since Zakat Payer did not submit evidence to the contrary of ZATCA's findings, thus ZATCA's procedure to add the disputed amounts is valid. This does not affect Zakat Payer's argument regarding lack of complete ownership of these amounts, since application of fatwas regarding debts of Zakat Payer requires considering the passage of a year thereon or using the same to finance assets that are deducted from the base. Condition of complete ownership has no relation to the extent of including debts in zakat base of Zakat Payer. Therefore, the Department concludes to dismiss Zakat Payer's appeal and uphold the Primary Department's Decision regarding this item.

With regard to Zakat Payer's appeal on the item (Foreign Investments), since Zakat Payer's appeal lies in objection to Primary Department's upholding of ZATCA's procedure of adding this item to zakat base, and claims payment of resulting zakat, while ZATCA argued that it adheres to validity and soundness of its procedure and requested that Zakat Payer's appeal be dismissed and that the Primary Department's Decision be upheld. Having examined subject of the dispute, having perused contents of case file, and since investment in foreign facilities is considered one of the items deducted from the zakat base, provided that proof of paying zakat thereon is provided in the country of investment. Since Zakat Payer has provided proof of paying zakat on investments in foreign companies, the Department concludes to accept Zakat Payer's appeal and overturn the Primary Department's Decision regarding this item.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer/ ..... Company, under CR. NO. (.....) TIN No. (.....), against the First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-209) delivered in Case No. (Z-8068-2019) in connection with Zakat assessment for 2016.

Second: On Merits:

1. Accept Zakat Payer's appeal regarding (Long-Term Advances), and reverse Decision of the First Department for the Determination of Income Tax Violations and Disputes in Dammam according to the Grounds stated in this Decision.
2. Dismiss Zakat Payer's appeal regarding the item (Commercial Creditors, Other Creditors and Advance Payments), and uphold Decision of the First Department to Adjudicate Income Tax Violations and Disputes in Dammam according to the Grounds and reasons stated in this Decision.

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3. **Accept Zakat Payer's appeal regarding the item (Foreign Investments), overturn First Department for the Determination of Income Tax Violations and Disputes in Dammam Decision, and return the case to the same Department for consideration on merits, in accordance with reasons and Grounds set forth in this Decision.**

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-209
Case No. Z-31451-2020

Keywords

Zakat - Estimated - Neglecting Submitted Financial Statements - Assessing an Amount Exceeding What Zakat Payer Declared

Abstract

Appellant (Zakat Payer) filed this appeal seeking cancellation of Primary Department's Decision No. (IZD-2020-179) on zakat assessment 1439 AH, since Zakat Payer's appeal lies in objection to Primary Department's upholding of ZATCA's procedure on neglecting submitting financial statements and estimated assessment thereon, and since the principle is the integrity of what is included in the audited financial statements, and since ZATCA did not challenge integrity of those financial statements, the appeal was therefore accepted and the Primary Department's Decision was overturned.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Article 20.3 of the Implementing Regulations for the Collection of Zakat issued by Minister of Finance Decision No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal filed on .. /.../... corresponding to: ../../..., holding National ID No. (...), in his capacity as the owner of Appellant Company, against the First Department for Determination of Income Tax Violations and Disputes in in Dammam Decision No. (IZD-2020-179) delivered in Case No. (Z-10278-2019) regarding zakat assessment of 1439 AH, filed by the Appellant against ZATCA. The Primary Decision ruled as follows:

In from: Accept the case filed by the Plaintiff/ ..... Civil Registry No. (...) in form.

On Merits: Overturn objection of Plaintiff/..., Civil Registry No. (...) regarding the item (estimated assessment) of 1439 AH

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to appealed Decision of the Primary Department, claiming that he confirms that he submitted the approved financial statements and that the capital amount that was calculated by ZATCA is incorrect. In addition, he has no imports or contracts pertaining to 1439 AH. Therefore, Zakat Payer requests that the Primary Department's Decision be overturned for the above reasons.

On Tuesday, 29/06/1443 AH, corresponding to 01/02/2022 AD, the Department decided to convene an electronic pleading hearing for (10) days. A replication was submitted by ZATCA, in which it responded to Zakat Payer's appeal, which included the following: ZATCA confirms validity of its opinion submitted before the Primary Department, and matters raised by Zakat Payer does not go beyond what was previously submitted and

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responded to by ZATCA at the time. Zakat Payer submits his statements based on estimated method and pays accordingly. In addition, financial statements on the basis of which Zakat Payer seeks to be held accountable were prepared at a date subsequent to the date of legal period for filing the declaration. Accordingly, ZATCA exercised its right to estimated assessment based on Article 13 of the Implementing Regulations for the Collection of Zakat and Article 20.3 of the same Regulations. Zakat Payer was held accountable as a result of estimated assessment based on value added tax sales, based on Article 13 of the Implementing Regulations for the Collection of Zakat. Therefore, ZATCA adheres to validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and ZATCA's procedure be upheld for the reasons stated above.

On Thursday, 16/07/1443 AH, corresponding to 17/02/2022 AD, and having perused the case file, the Department requested ZATCA to submit the assessment letter notified to Zakat Payer dated 28/07/1440 AH. The Department also requested ZATCA to submit Zakat Payer's financial statements and chartered accountant's report thereon, provided that the same shall be submitted within (7) days of its date. Accordingly, ZATCA submitted a number of Documents.

On Wednesday, 09/11/1443 AH, corresponding to 08/06/2022 AD, and having reviewed memorandums and statements of appeal, and having examined papers and Documents contained in the case file, the Department decided that the case is ready for adjudication and issuance of Decision on its merits. Accordingly, the Department decided to close the pleading and schedule the case for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, having perused the case file, and since Zakat Payer's appeal lies in objection to Primary Department's upholding of ZATCA's procedure of neglecting the submitted financial statements and estimated assessment thereon, while ZATCA argued that it upholds validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and that the Primary Department's Decision be upheld. Having perused subject of the dispute, having examined contents of the case file, and since ZATCA carried out estimated assessment on Zakat Payer in an amount exceeding what Zakat Payer acknowledged in the declaration submitted to ZATCA. Since ZATCA's assessment was not based on a field inspection of Zakat Payer, and since Zakat Payer submitted audited financial statements, Zakat Payer has the right to submit the same as evidence proving validity of his claim based on the provisions of Article 20.3 of the Implementing Regulations
for the Collection of Zakat. Preparation of such financial statements at a date later than the date of submitting the declaration is without prejudice to the fact that they were submitted by Zakat Payer as evidence proving validity of expenses claimed to have incurred in realization of revenues on which ZATCA based its assessment. Since the principle is integrity of what is included in the audited financial statements, and since ZATCA did not challenge the integrity of these financial statements and did not provide evidence that can be relied upon to revoke what was stated therein. This Department decides to cancel ZATCA's assessment Decision and entitlement of Zakat Payer to calculate his zakat base based on what was stated in his declaration, and overturn the Primary Department's Decision.

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In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No (IZD-2020-179) rendered in Case No. (Z-10278-2019) regarding tax assessment for 1439.

Second: On Merits: Accept Zakat Payer's appeal, overturn Decision of Primary Department, and cancel ZATCA's assessment Decision subject of the case, according to reasons and Grounds set forth in this Decision.

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Decision No. IR-2022-216
Case No. Z-29556-2020

Keywords
Zakat - Accounts - Field Inspection Work - Headquarters Fire - Loss of Documents

Abstract

Appellant (Zakat Payer) filed this appeal seeking cancellation of the Primary Department's Decision No. (IFR-2020-96), regarding zakat assessment subject of the case of 2013, since Zakat Payer's appeal lies in objection to the Primary Department's upholding of ZATCA's procedure regarding calculating zakat according to items in favor of ZATCA and neglecting the items in favor of Zakat Payer. The Department has proven ZATCA relied in its assessment on Zakat Payer's financial statements audited by a chartered accountant, which indicates soundness of Zakat Payer's position. This is not affected by what ZATCA indicated in the field inspection report regarding absence of regular Documents and books. Zakat Payer submitted to this Department a document proving the loss of these Documents as a result of a fire at the company headquarters. Therefore, the Department accepts the appeal and overturns Primary Department's Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal filed on ../../... /...., corresponding to .. /../..., by ..., holding National ID No. (...), in his capacity as the attorney for the Appellant Company, by virtue of POA no. (...), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-96) delivered in Case No. (Z-6884-2019) regarding zakat assessment for 2013, filed by the Appellant against ZATCA. The Primary Decision ruled as follows:

Dismiss objection filed by Plaintiff (... Company), TIN (…) to Defendant's (ZATCA) Decision regarding zakat assessment subject matter of the Case for 2013.

Since Zakat Payer (… Company) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, stating that the zakat should be calculated according to the financial statements issued by... Office and in accordance with the Implementing Regulations for the Collection of Zakat issued by Minister of Finance Resolution No. (2082) dated 01/06/1438H. In addition, Zakat Payer emphasizes that the Company acknowledged in minutes of field audit that there are no regular Documents and books due to a fire at Company's factory (Kindly see the statement of the General Directorate of Civil Defense). The Company retrieved data from electronic devices through specialists and submitted the same to ZATCA audit officer.

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Moreover, Zakat Payer claims that ZATCA calculated zakat based on elements that are in favor of ZATCA, while disregarding those in favor of Zakat Payer is contrary to Sharia and the Implementing Regulations for the Collection of Zakat. It is just and fair to deduct the elements that are in favor of Zakat Payer, especially since the financial data originates from the same financial statements used by ZATCA. Moreover, Zakat Payer requests recalculation of zakat according to all elements stated in the financial statements relied upon by ZATCA and in accordance with the Implementing Regulations for the Collection of Zakat, with a willingness to provide all necessary Documents. Therefore, Zakat Payer request overturning Primary Department's Decision subject matter of appeal for the aforementioned reasons.

On Monday, 22/10/1443 AH corresponding to 23/05/2022 AD, the Department decided to convene an electronic pleading hearing for 10 days. A replication was submitted by ZATCA, in which it responded to Zakat Payer's appeal, in which that confirms its point of view expressed before the Primary Department. Moreover, during the field inspection phase, Zakat Payer reported that there was no accounting system for 2010 to 2015 AD, and then it became clear to ZATCA through the data available to it that financial statements of 2010 to 2015 were issued, other than those submitted to ZATCA during the field inspection phase, issued by ..... Office. Through these financial statements, it is found that there was a fundamental difference in values of the assets, liabilities and results of Company's business contained in these financial statements submitted at the time of field inspection. The last paragraph of notification explaining results of field inspection indicates that ZATCA verified the company's responsibility for issuing these statements. Accordingly, ZATCA believes that zakat dues should be calculated on the company in the light of existence of financial statements that differ from those submitted to ZATCA by Zakat Payer. Having reviewed Note No. (21) of the financial statements reissued in 2015 by ..... Office, it is evident that the comparative year (Opening Year of 2015, i.e. 2014 Balances) has been amended due to exclusion of an activity that does not pertain to the company. Therefore, since the Primary Department has established that financial statements of disputed years are incorrect, and since multiplicity of Zakat Payer's financial statements naturally leads to dissatisfaction and reliance on the said financial statements, since it is not known which statement is more correct than the other, which indicating the validity of ZATCA's procedure for carrying out estimated assessment on Zakat Payer and relying on data available thereto based on the provisions of Article 13.8 of the Implementing Regulations

for the Collection of Zakat issued in 1438 AH. If this Department sees the necessity of assessing based on financial statements, ZATCA requests that the Decision include what indicates that it shall carry out assessment based on financial statements without this conflicting with the principle of prescription. Furthermore, ZATCA requests the Department not to accept any new Documents that were not submitted during the examination and objection phases, and also requests not to accept any new requests from Zakat Payer based on Article 186 of the Law of Procedure Before Sharia Courts. Accordingly, ZATCA adheres to validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the Primary Department's Decision be upheld for the reasons stated above.

On Thursday, 10/11/1443 AH corresponding to 09/06/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

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Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Zakat Payer's appeal involves objecting to Primary Department's upholding of ZATCA procedure outlined in calculating zakat according to elements that are in favor of ZATCA and disregarding elements that are in favor of Zakat Payer. On the other hand, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having considered subject of the dispute, having examined papers contained in the case file, and since it is established to this Department that ZATCA relied in its assessment on Zakat Payer's financial statements audited by a chartered accountant. It is also established to the Department that ZATCA took positive items in zakat base from those financial statements and refrained from taking the effect of negative items on zakat base. It is practically inconceivable, according to the nature of Zakat Payer's activity and capital, to carry out business of that company without the existence of operational assets, and since ZATCA relied on those financial statements and there was no evidence of any challenge to those audited financial statements, which establishes soundness of Zakat Payer's position. This is not affected by what ZATCA indicated in the field inspection report regarding absence of regular Documents and books. Zakat Payer submitted to this Department a document proving the loss of these Documents as a result of a fire at the company headquarters. The Department did not find any negligence or intentionality on the part of Zakat Payer to destroy these Documents, which makes it clear that Zakat Payer is entitled to be held accountable for zakat in accordance with the financial statements on which ZATCA relied in its assessment. Therefore, the Department concludes to accept Zakat Payer's appeal and overturn the Primary Department's Decision regarding Zakat Payer's objection.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (IFR-2020-96) rendered in Case No. (Z-6884-2019) regarding tax assessment for 2013.

Second: On Merits:

Accept Zakat Payer's appeal and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh according to reasons and Grounds stated herein.

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Decision No. IR-2022-218
Case No. Z-26798-2020

Keywords
Zakat - Accounts - Assessment After Lapse of Legal Period - Goods Whose Value Has Decreased - Difference in External Purchases

Abstract

Appellant (Zakat Payer) filed his appeal seeking cancellation of the Primary Department's Decision No. (IZJ-2020-85), on zakat assessment for 2009, with regard to Zakat Payer's appeal on the item (Provision for GOODS WHOSE VALUE DECREASED FROM ZAKAT BASE of 2009 AD) and item (Difference In External Purchases To Zakat Base of 2009), since Zakat Payer's appeal lies in objection to the Primary Department's upholding of ZATCA procedure of adding these items to zakat base. It is established to the Department that ZATCA's assessment was after the lapse of legal period for making amendments to Zakat Payer's declaration, which is set at five years from the deadline for Zakat Payer to submit his zakat declaration for each year. Since these rules came in order to achieve stability of transactions, and not to leave positions of Zakat Payers anxious without specifying a certain period during which it becomes clear to them that their financial position will not be destabilized. Therefore, the Department accepts the appeal and overturns Primary Department's Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal filed on ../../... /... corresponding to ../.. ../../.... filed by ..., holder of National ID No. (...) in his capacity as the attorney of Appellant Company under POA No. (...) against the First Department to Adjudicate Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-85) rendered in Case No. (Z-7982-2019) related to zakat assessment for 2009 in Case filed by Appellant against ZATCA. Primary Department's Decision states:

First: In form:

Accept the case filed by the Plaintiff (.....Compan), under C.R. No. (...) in form.

Second: On Merits:

1. Reject objection of Plaintiff (..... Company) to not deducting the item of provision for goods whose value has decreased from zakat base of 2009.
2. Reject objection of Plaintiff (..... Company) to adding of the item of external purchases difference to zakat base of 2009.
3. Proof settlement of dispute with the Plaintiff (..... company) accepting Defendant's point of view regarding accounts payable of 2009.

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Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

Zakat Payer objects to appealed Decision of Primary Department, claiming that, with respect to the item (Depreciation of Goods Value), he confirms what was stated in the financial statements, "Goods worth SAR 2.4 million as of December 31, 2009 (2008: SAR 2.3 million) SAR 2.3 million) were considered as their value had decreased", which means that goods were recorded at the aforementioned amount, even though their market value had decreased, and that the company did not record any expense related to decrease in value of inventory in the income statement. With respect to the item (Import Difference), Zakat Payer requests to amend the amount of foreign purchases under customs declaration and to calculate the difference based on amounts contained in the customs declaration as follows: Foreign purchases under the Company's declaration are SAR (41,318,974) and under the Customs Declaration are SAR (46,818,514). Therefore, difference to be added to the net profit is SAR (5,499,540). Accordingly, Zakat Payer demands to overturn the appealed Decision of Primary Department for the above reasons.

Since the Department decides to open up court proceedings, a replication dated 09/01/1443 AH corresponding to 17/08/2021 AD was submitted by ZATCA, in which it responded to Zakat Payer's appeal, in which it confirmed its point of view submitted before the Primary Department. With regard to the item (Provision for Goods Whose Value Has Decreased), ZATCA adheres to its point of view, as its Decision is in accordance with the provisions of Article 20.3 of the Implementing Regulations for the Collection of Zakat issued in 1438 AH, Article 5.1, and Article 6.2, of the said Regulations. With regard to the item (Foreign Purchases Difference), ZATCA adheres to its point of view, as its Decision is in accordance with the provisions of 20.3 of the Implementing Regulations for the Collection of Zakat issued in 1438 AH, Article 5.1, and Article 6.2, of the said Regulations, and based on Circular No. (2030) of 1430 AH. Moreover, ZATCA confirms that what Zakat Payer raised does not go beyond what he had previously submitted and ZATCA responded to in a timely manner. ZATCA requests that no new Documents be accepted from Zakat Payer that were not submitted during the examination and objection phases. Therefore, ZATCA adheres to validity and soundness of its procedure and requests that tZakat Payer's appeal be dismissed and the Primary Department's Decision be upheld for the reasons stated above.

On Sunday, 21/10/1443 AH, corresponding to 22/05/2022 AD, the Department decided to hold an electronic session for a period of 10 days. The period elapsed without any additional submissions from either party to the appeal.

On Sunday, 13/11/1443 AH corresponding to 12/06/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, with regard to Zakat Payer's appeal regarding the items (Provision for Goods Whose Value Decreased From Zakat Base of 2009) and the items (Foreign Purchases Difference To Zakat Base of 2009), and since Zakat Payer's appeal lies in objection to the Primary Department's upholding of ZATCA's procedure of adding these two items to

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zakat base, while ZATCA argued that it upholds validity and soundness of its procedure and requests thatZakat Payer's appeal be dismissed and that the Primary Department's Decision be upheld. Having considered subject of the dispute, having examined papers contained in the case file, and since it is established to the Department that ZATCA's assessment was after the lapse of legal period for making amendments to Zakat Payer's declaration, which is set at five years from the deadline for Zakat Payer to submit his zakat declaration for each year. Since these rules came in order to achieve stability of transactions, and not to leave positions of Zakat Payers anxious without specifying a specific period during which it becomes clear to them that their financial position will not be destabilized, which was proven in ZATCA's confrontation with Zakat Payer's objection. Since this matter does not result in Zakat Payer being released from legal obligation if his liability is actually occupied with that obligation, but rather its effect is represented in a procedural matter related to ZATCA's right to reopen assessments after the lapse of prescribed legal period. Therefore, the Department concludes that ZATCA's procedure to make such amendments is invalid. Accordingly, the Department decides to cancel ZATCA's assessment Decision and to overturn the Decision of theFirst Department for Determination of Income Tax Violations and Disputes in Jeddah regarding the outcome it ruled.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer/ ..... Company, under CR. No. (.....) TIN No. (.....), against the First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-85) delivered in Case No. (Z-7982-2019) in connection with Zakat assessment for 2009.

Second: On Merits:

1. Accept Taxpayer's Appeal regarding the item (Provision for Goods Whose Value Decreased From Zakat Base for 2009), cancel ZATCA's assessment Decision, and overturn Decision of the First Department to Adjudicate Income Tax Violations and Disputes in Jeddah, according to reasons and Grounds set forth in this Decision.
2. Accept Taxpayer's appeal regarding the item (Foreign Purchases Difference to Zakat Base of 2009), cancel ZATCA's assessment Decision, and overturn Decision of the First Department for the Determination of Income Tax Violations and Disputes in Jeddah, according to reasons and Grounds set forth in this Decision.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-219
Case No. Z-26820-2020

Keywords
Zakat - Accounts - Assessment After Lapse of Legal Period - Import Difference - Amendment of Foreign Purchases Amount

Abstract

Appellant (Zakat Payer) filed his appeal seeking cancellation of the Primary Department's Decision No. (IZJ-2020-86) on zakat assessment for 2010 to 2013, since Zakat Payer's appeal regarding (Imports Difference) lies in his objection to the CPrimary Department's upholding of ZATCA's procedure of adding this item to zakat base, and he requests to amend foreign purchases amount and calculating the difference in accordance with amounts set forth in the customs statement. With regard to Zakat Payer's appeal on this item for 2010 and 2011, the Department established that ZATCA's assessment was after the lapse of legal period for making amendments to Zakat Payer's declaration, which is set at five years from the deadline for Zakat Payer to submit his zakat declaration for each year. With regard to Zakat Payer's appeal on this item for 2012 and 2013, and since the dispute is documentary in its subject matter, and since Zakat Payer submitted customs data and settlement statements, which proved the validity of differences calculated by Zakat Payer. Therefore, the Department accepts the appeal and overturns Primary Department's Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal filed on ../../... /...., corresponding to .. /.. /..., by ....., holding National ID No. (...), in his capacity as Appellant Company' Attorney under POA No. (…), against the First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-86) delivered in Case No. (Z-7985-2019) in connection with zakat assessment for2010 and 2013, in the Case filed by Zakat Payer against ZATCA. The Primary Decision ruled as follows:

First: In form:

Accept the case filed by the Plaintiff (.....Compan), under C.R. No. (...) in form.

Second: On Merits:

1. Reject objection of Plaintiff (..... Company) to adding of the item of foreign purchases difference to zakat base for 2010 to 2013.
2. Accept objection of Plaintiff (..... Company) and cancel Defendant's Decision regarding the addition of special bonus item to zakat base in 2011.

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3. Proof settlement of dispute with the Plaintiff (..... company) accepting Defendant's point of view regarding accounts payable for 2010 to 2013.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

Since Zakat Payer objects to appealed Decision of Primary Department, claiming that, with respect to the item (Imports Difference), he requests that the amount of foreign purchases under the customs statement be amended and that difference be calculated based on amounts in customs statement. Therefore, Zakat Payer requests that Primary Department's Decision subject to appeal be overturned for the above reasons.

On Sunday, 21/10/1443 AH corresponding to 22/05/2022 AD, the Department decided to convene an electronic pleading hearing for 10 days. ZATCA submitted a replication, in which it responded to Zakat Payer's appeal, in which it confirmed its point of view submitted before the Primary Department. In addition, with regard to the item under appeal, ZATCA made a comparison between value of foreign purchases contained in declarations and that value provided by ZATCA. Zakat Payer did not submit Documents supporting his point of view of internal purchases value, so ZATCA applied Circular No. (2030) of 1430 AH, and based on the provisions of Article 20.3 of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. ZATCA requests the Department not to accept any new requests from Zakat Payer in accordance with Article 186 of the Law of Procedure Before Sharia Courts. Therefore, ZATCA adheres to validity and soundness of its procedure, and requests that Zakat Payer's appeal be dismissed and the Primary Department's Decision be upheld for the reasons stated above.

On Sunday, 13/11/1443 AH corresponding to 12/06/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, with regard to Zakat Payer's appeal on the item (Import Difference), since Zakat Payer's appeal lies in objection to Primary Department's upholding of ZATCA's procedure of adding this item to zakat base, and requests that the amount of foreign purchases be amended and the difference be calculated according to amounts stated in the customs statement, while ZATCA argued that it upholds validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the Primary Department's Decision be upheld. With regard to Zakat Payer's appeal on this item for 2010 and 2011, and having considered subject of the dispute, having examined papers contained in the case file, and since it is established to the Department that ZATCA's assessment was after the lapse of legal period for making amendments to Zakat Payer's declaration, which is set at five years from the deadline for Zakat Payer to submit his zakat declaration for each year. Since these rules came in order to achieve stability of transactions, and not to leave positions of Zakat Payers anxious without specifying a specific period during which it becomes clear to them that their financial position will not be destabilized, which was proven in ZATCA's confrontation with Zakat Payer's objection. Since this matter does not result in Zakat Payer being released from legal obligation if his liability is actually occupied with that obligation, but rather its effect is

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represented in a procedural matter related to ZATCA's right to reopen assessments after the lapse of prescribed legal period. Therefore, the Department concludes to cancel ZATCA's assessment Decision, overturn Decision of the First Department for the Determination Zakat Violations and Disputes in Jeddah.

With regard to Zakat Payer's appeal on this item for 2012 and 2013, having considered subject of the dispute, having examined papers contained in the case file, and since the dispute is documentary on merits. Since Zakat Payer submitted the customs sdata and settlement statements that confirmed validity of differences calculated by Zakat Payer, and since ZATCA did not provide any justification for not taking into account what was stated by Zakat Payer, and did not provide evidence that could be relied upon to deviate from what Zakat Payer proved regarding calculating validity of differences in dispute. Accordingly, the Department decided to accept Zakat Payer's appeal and overturn the Primary Department's Decision in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept Appeal in form filed by Zakat Payer/ ..... company, under CR No. (.....), TIN (.....), against the First Department for the Determination Zakat Violations and Disputes in Jeddah Decision No. (IZJ-2020-86) delivered in Case No. ((Z-7985-2019) on tax assessment for 2010 and 2013.

Second: On Merits:

Accept Zakat Payer's appeal regarding the item (Import Difference for 2010 to 2013), cancel ZATCA's assessment Decision, and overturn Decision of the First Department for the Determination Zakat Violations and Disputes in Jeddah, according to reasons and Grounds set forth in this Decision.

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Decision No. IR-2022-220
Case No. Z-26933-2020

Keywords
Zakat - Accounts - Long-Term Trade Recivables - Passage of a Year

Abstract

Appellant (Zakat Payer) filed his appeal seeking cancellation of the Primary Department's Decision No. (IZJ-2020-82) on zakat assessment of 1436 AH, since Zakat Payer's appeal lies in objection to double payment of zakat resulting from addition of trade receivables to zakat base, as there was no dispute regarding the passage of a year on the disputed amount, and since sources of financing are added to zakat base if a year has passed thereon or financed assets deducted from the base. Since the Department has not noted anything that required correction or comment in the light of what has been presented thereto, and since the Department has found the validity of conclusion reached by the Department issuing Decision subjct of appeal. Therefore, the Department dismisses the appeal and upholds Primary Department's Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

The Department convened to consider the Appeal filed on ../../... AH, corresponding to ../../ ...., filed by ..., holder of National ID No. (...) in his capacity as the attorney of Appellant Company under POA No. (...) against the First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-82) rendered in Case No. (Z-4743-2019) related to zakat assessment for 1436 AH in Case filed by Appellant against ZATCA. Primary Department's Decision states:
First: In form:
Accept Plaintiff's (.... organization) Case with C.R No.: (....) in form.
Second: On Merits:
Reject objection of Plaintiff (..... Company) to adding the long-term trade receivables items to zakat base of 1436 AH.
Since this Decision was not accepted by Zakat Payer (.... organization), therefore, Zakat Payer filed a statement of appeal that included the following summary:
Zakat Payer objects to the appealed Decision of Primary Department, claiming that with regard to the item (Long-Term Trade Receivables), it is not valid to double payment of zakat on the same money for the same Zakat Payer in the same year. Balance of long-term trade receivables is an amount owed to a subsidiary of Zakat Payer, of which Zakat Payer owns 59.09% of its capital. Therefore, what applies to holding companies applies to it.

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Accordingly, Zakat Payer requests that Primary Department's Decision be overturned for the above reasons.

On Monday, 22/10/1443 AH, corresponding to 23/05/2022 AD, the Department decided to convene an electronic pleading hearing for (10) days. A replication was submitted by ZATCA, in which it responded to Zakat Payer's appeal, which included the following: ZATCA confirms its point of view in the replication submitted to the Primary Department. It has also added long-term trade receivables on which a year has passed to zakat base based on Article 4.5 of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. Furthermore, ZATCA requests the Department not to accept any new Documents from Zakat Payer that have not previously been submitted to ZATCA without an acceptable excuse, as the regulator has placed burden of proving validity of zakat declarations and tax returns on Zakat Payers, in accordance with the provisions of Article 20.3 of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. ZATCA also requests the Department not to accept any new Documents from Zakat Payer based on Article 186 of the Law of Procedure Before Sharia Courts. Therefore, ZATCA adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the Primary Department's Decision be upheld for the reasons stated above.

On Sunday, 13/11/1443 AH corresponding to 12/06/2022 AD, having perused the Parties' submissions regarding appeal, having examined papers and Documents contained in case file, the Department established that the case was ready for adjudication and issuance of Decision. Accordingly, the Department decided to close the pleadings and set the case for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, since Zakat Payer's appeal lies in objection to double payment of zakat resulting from addition of trade accounts payable to zakat base, while ZATCA adheres to validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the Primary Department's Decision be upheld. Having considered Zakat Payer's appeal, having examined contents of the case file, and since there was no dispute regarding passage of a year on the disputed amount, and since sources of funding are added to zakat base if a year has passed thereon or financed assets deducted from the base. Since the Department did not notice anything that required correction or comment in the light of what has been presented thereto, and since the Department found that conclusion reached by the Department issuing Decision subject of the appeal was correct, the Department therefore decides to dismiss Zakat Payer's appeal and the Primary Department's Decision regarding Zakat Payer's objection be upheld.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer/ ..... institution, under CR. No. (.....), TIN No. (.....), against the First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-82) delivered in Case No. (Z-4743-2019) regarding zakat assessment of 1436 AH.

Second: On Merits:

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Accept Zakat Payer's appeal and overturn Decision of First Department for the Determination of Income Tax Violations and Disputes in Jaddah, according to reasons and Grounds set forth in this Decision.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-223
Case No. Z-30327-2020

Keywords
Zakat - Estimated - Double Calculation of Revenues - Insufficiency of Primary Decision - Case Reconsideration

Abstract

Appellant (Zakat Payer) filed this appeal seeking cancellation of the Primary Department's Decision No. (Z-12570-2020), on zakat assessment of 1440 AH, since Zakat Payer's appeal regarding the item (Estimated Zakat Assessment of 1440 AH) lies in objection of revenue calculation, as it was found that the Decision under appeal was devoid of discussion of a fundamental pleading by Zakat Payer, which is the double calculation of revenues by ZATCA. Therefore, It is decided that the Decision is fatally flawed and must be overturned, which makes dispute not settled as stipulated in the wording of Decision, and thus the Primary Department did not use the same in adjudicating on subject of the dispute. Therefore, Zakat Payer has the right to two degrees of litigation. Therefore, the Department accepts the appeal and remands the Case.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal filed on ../../... /...., corresponding to .. /.. /... AH filed by …. holding National ID No. (...), against the First Department for Determination of Income Tax Violations and Disputes in in Riyadh Decision No. (IFR-2020-210) delivered in Case No. (Z-12570-2020) regarding zakat assessment of 1440 AH, filed by the Appellant against ZATCA. The Primary Decision ruled as follows:

Dismiss the objection raised by Plaintiff/ ..... (TIN .....) to Decision of Defendant/ ZATCA regarding zakat assessment subject of the case.

Dissatisfied with this Decision, Zakat Payer (...) submitted a statement of appeal summarized as follows:

Zakat Payer objects to appealed Decision of the Primary Department, claiming that, with regard to the item (Estimated Zakat Assessment of 1440 AH), provision of Article 9 of the Implementing Regulations for the Collection of Zakat allows Zakat Payer to deduct regular and necessary expenses to achieve the taxable income. ZATCA adheres to provision of Article 13, which defines the zakat base, which is not disputed in form or on merits. The case was dismissed because ZATCA adhered to provision of Article 13 to determine the zakat base, despite the clarification provided by Zakat Payer pursuant to the memorandum submitted to the Secretariat. Accordingly, Zakat Payer demands that the appealed Decision of Primary Department be overturned for the reasons stated above.

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On Tuesday, 29/06/1443 AH, corresponding to 01/02/2022 AD, the Department decided to convene an electronic pleading hearing for 10 days. ZATCA submitted a replication in which it responded to Zakat Payer's appeal, in which it confirmed its point of view before the Primary Department. The Primary Department's Decision was in accordance with the provisions of Article 13.6&8 of the Implementing Regulations for the Collection of Zakat, as Zakat Payer was subject to estimated assessment based on value added tax returns. What Zakat Payer raised does not go beyond what he had previously submitted and ZATCA responded to at the time. ZATCA requests the Department not to accept any new requests from Zakat Payer based on Article 186 of the Law of Procedure Before Sharia Courts. Therefore, the Department adheres to validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the Primary Department's Decision be upheld for the above reasons.

On Sunday, 28/10/1443 AH, corresponding to 29/05/2022 AD, having perused the case file, this Department requested Zakat Payer to write his appeal and clarify his requests, within seven days from its date.

On Thursday, 17/10/1443 AH corresponding to 16/06/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, with regard to Zakat Payer's appeal on the item (Estimated Zakat Assessment of 1440 AH), since Zakat Payer's appeal lies in objection to duplication in calculation of revenues, while ZATCA argued that it upholds validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and that Primary Department's Decision be upheld. Having examined subject of the dispute, and having considered papers contained in the case file, and since the judicial ruling is based on some of the most important reasons, including requests and pleas of litigants, and examining and discussing their Grounds, in order to reach a correct ruling in accordance with established judicial principles. Since Grounds for the judgment must include an answer to every request or plea made before the judicial department and ruling thereon may entail a change of opinion on the dispute, otherwise the judgment would be flawed. Since the Decision subject of appeal was found to be devoid of discussion of a fundmental pleading of Zakat Payer, which is the double calculation of revenues by ZATCA, which determines that the Decision is flawed and must be overturned, which makes the dispute not settled as stipulated by wording of Decision, and thus the Primary Department did not use tha same in adjudicating on subject of the dispute. In order to enable Zakat Payer to have the right to litigate at both degrees, this Department concludes to overturn the the First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision regarding this item and return the case to it for consideration on merits in the light of requests and defenses submitted before it.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

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First: Accept the appeal in form filed by Zakat Payer/ ....., under CR. NO. (.....) TIN No. (.....), against the First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-210) delivered in Case No. (Z-12570-2020) in connection with Zakat assessment for 1440 AH.

Second: On Merits:

Accept Zakat Payer's appeal regarding the item (Estimated Zakat Assessment of 1440 AH), overturn First Department for the Determination of Income Tax Violations and Disputes in Riyadh Decision, and return the case for consideration on merits, in accordance with reasons and Grounds set forth in this Decision.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-225
Case No. Z-26391-2020

Keywords
Zakat - Estimated - Assessment After Legal Period - Cessation of Company's Activity - Considering Current Assets Shown in the Financial Statements as a Zakat Base

Abstract

Appellant (Zakat Payer) filed this appeal seeking cancellation of the Primary Department's Decision No. (IZJ-2020-111) on zakat assessment for 2003-2014. Since Zakat Payer's appeal regarding (estimated zakat assessment for 2003-2014) lies in objection to the Primary Department's upholding of ZATCA's procedure of carrying our zakat assessment for the disputeed years, as he claims that the company does not have zakat assets, and that its position excludes imposing Zakat thereon to that extent, which shows that its assessment from 2003 to 2010 was made after the legal period for submitting zakat declarations regarding Zakat Payer's appeal on the remaining years. Since ZATCA's assessment for those years is limited to imposing zakat on the regulatory capital at a rate of 2.5%. Since the regular capital indicates the amount of investment principal in the company, and does not mean that it remains in cash throughout the life cycle of enterprise. Since zakat is imposed on Zakat funds and since financial statements indicated that the company's activity ceased from 2011 to 2014, zakat funds available to Zakat Payer are represented by the total of its current assets subject of the dispute. Therefore, the Department accepts Zakat Payer's appeal.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal filed on ../../... /...., corresponding to .. /.. /..., filed by ....., holding National ID No. (...), in his capacity as Appellant Company' Attorney under its AOA, against the First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-111) delivered in Case No. (Z-4443-2019) in connection with zakat assessment for 2003 to 2014, in the Case filed by Zakat Payer against ZATCA. The Primary Decision ruled as follows:

First: In form:

Accept the case filed by the Plaintiff (.....Company), C.R. No. (...) in form for being filed within the legal period.

On Merits:

1. Reject the plaintiff's (..... cimpany) objection to estimated zakat assessment for 2003 and 2014.

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Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

Zakat Payer objects to the Primary Department's Decision, claiming that, with regard to (Estimated Zakat Assessment for 2003 to 2014), zakat is not allowed to be paid on money other than zakat, as the company does not have zakat assets. The fact of company is that it is overburdened with debts that that exclude payment of zakat thereon to that extent, which is confirmed by cancellation of commercial register and sale of company's property to meet its debts. In addition, the chartered accountant recommended dissolving the company, the company's office was closed, the property was handed over to the owner and sponsorship of employees was transferred. There was also confusion during session of Primary Department if asked about the reason for not submitting the financial statements, and due to lack of clarity of voice and his old age, it was understood that it meant the committee that visited him in the office. Zakat Payer confirms that financial statements were submitted to ZATCA. Therefore, Zakat Payer requests that the Primary Department's Decision be overturned given the abovementioned reasons.

On Monday, 22/10/1443 AH, corresponding to 23/05/2022 AD, the Department decided to convene an electronic pleading hearing for 10 days. ZATCA submitted a replication, in which it responded to Zakat Payer's appeal, in which it adhered to validity and soundness of its procedure. In addition, what was reaised by Zakat Payer do not go beyond what he had previously submitted and ZATCA responded to in a timely manner. Moreover, ZATCA clarifies that its procedure was sound in accordance with the legal requirement in carrying out estimated assessment on Zakat Payer after the field examination, as it became clear that Zakat Payer does not have an accounting program that supports the accounts approved by the the chartered accountant and submitted to ZATCA. Therefore, Zakat Payer was subject to estimated assessment based on Article 13.5 of the Implemeting Regulations for the Collection of Zakat, and in accordance with the Article 20.3 of the same Regulations. ZATCA requests the Department not to accept any new Documents from Zakat Payer that were not submitted to ZATCA during the examination and objection phases. Furthermore, ZATCA requests the Department not to accept any new Documents from Zakat Payer based on Article 186 of the Law of Procedure Before Sharia Courts. Therefore, ZATCA requests that Zakat Payer's appeal be dismissed and that the Primary Department's Decision be upheld for the aforementioned reasons.

On Sunday, 20/11/1443 AH corresponding to 19/06/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, with regard to Zakat Payer's appeal concerning (Estimated Zakat Assessment for 2003 to 2014), and since Zakat Payer's appeal lies in objection to the Primary Department's upholding of ZATCA's procedure of conducting the estimated zakat assessment for the disputed years, he claims that the company does not have zakat assets, and its reality excludes payment of zakat to that extent, while ZATCA argued that it upholds validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the Primary Department's Decision be upheld. Having considered subject

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of the dispute, and having examined papers contained in the case file, and since ZATCA's assessment on Zakat Payer was dated 23/01/1438 AH corresponding to 24/10/2016 AD, which shows that its assessment for 2003 to 2010 was made after the legal period for submitting zakat declarations. Accordingly, the Department decides to overturn the Primary Department's Decision regarding these years.

With regard to Zakat Payer's appeal on the remaining years, and since ZATCA's assessment for those years is limited to imposition of zakat on legal capital at a rate of 2.5%, and since the legal capital shows the amount of investment principal in the company, and does not mean that it remains in cash throughout the life cycle of enterprise, and since zakat is only imposed on zakat funds. Since the financial statements show that the company ceased its activity for 2011 to 2014, zakat funds available to Zakat Payer are represented by total of its current assets for the disputed years, which the audited financial statements indicated that they consist of cash and receivables on customers. Since Zakat Payer did not provide the department with a document showing insolvency of his clients or failure to collect debts for the disputed years. Therefore, the Department decides to amend the Primary Department's Decision, by deciding to calculate zakat on Zakat Payer, considering that his current assets shown in his financial statements represent his zakat base for the disputed years. This is not affected by what ZATCA argued in its response to Zakat Payer's appeal, regarding Zakat Payer's lack of an accounting system during the field inspection. This Department found that the activity of Zakat Payer had ceased during this period, and it was not proven to the Department that ZATCA requested Zakat Payer to review his Documents in the place where they were kept.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal filed by Zakat Payer / Company ....., CR. NO. (.....). TIN No. (.....), against the First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-111) delivered in Case No. (Z-4443-2019) in connection with zakat assessment for the period 2013-2014.

Second: On Merits:

With regard to (ESTIMATED ZAKAT ASSESSMENT for 2003-2014):

A. Accept Zakat Payer's appeal and overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah for 2003-2010, in accordance with reasons and Grounds set forth in this Decision.

B. Accept Zakat Payer's appeal and amend Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah by deciding to calculate zakat on Zakat Payer on the Grounds that his current assets shown on his financial statements represent his zakat base for 2011 to 2014, in accordance with reasons and Grounds set forth in this Decision.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-228
Case No. ZI-25698-2020

Keywords
Zakat - Accounts - Assessment after Lapse of Legal Period - Cost of Chicks - Rents - Suppliers Completed a Full Year - Customers Paid Advance Payments that Completed a Full Year

Abstract

Appellant (Zakat Payer) filed the appeal seeking cencellation of the Primary Department's Decision No. (IZD-2020-113), on zakat assessment of 2011. Since it was established to the Department that ZATCA's assessment was carried out after expiry of legal period prescribed for making amendments to Zakat Payer's declaration of 2011, which is specified at five years from the deadline for Zakat Payer to submit zakat declaration for each year. Since these rules came in order to achieve stability of transactions, and not to leave positions of Zakat Payers anxious without specifying a certain period during which it becomes clear to them that their financial position will not be destabilized, which was proven ZATCA's procedure against Zakat Payer's objection. Since this matter does not result in Zakat Payer being released from legal obligation if his liability is actually occupied with that obligation, but rather its effect is represented in a procedural matter related to ZATCA's right to reopen assessments after the lapse of prescribed legal period. Therefore, the Department accepts the appeal and overturns Primary Department's Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal filed on ../../... corresponding to .. /.. ../../.... filed by ..., holder of National ID No. (...) in his capacity as the attorney of Appellant Company under POA No. (...) against the First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-113) rendered in Case No. (ZI-6055-2019) related to zakat assessment for 2011 in Case filed by Appellant against ZATCA. Primary Department's Decision states:

1. Proof that the dispute regarding expenses for which no Documents were provided of 2011 has settled.
2. Dismiss Plaintiff's objection regarding cost of chicks of 2011.
3. Dismiss Plaintiff's objection regarding rents item of 2011.
4. Proof that the dispute regarding slaughter cost item of 2011 has settled.
5. Dismiss Plaintiff's objection regarding social insurance of 2011.

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6. Dismiss Plaintiff's objection regarding the item (Suppliers and Customers Paid Advance Payments of 2011)

Dissatisfied with this Decision, Zakat Payer (...) submitted a statement of appeal summarized as follows:

Zakat Payer objects to the appealed Decision of Primary Department, claiming that, with regard to the item (Cost of Chicks), the item must be deducted from zakat base, due to his submission of all required data and Documents from audited and approved financial statements. The expense is also directly related to the activity and not a capital expense. Regarding the item (Rents), Zakat Payer claims that this item must be deducted from zakat base, because he does not own a chick hatchery, slaughterhouse or breeding farm, and therefore rents the same from its owners under operating contracts. Rents were recognized as an expense on the company and the company's obligation towards its owners, and the actual payment was made through the account of related parties. An amount of SAR (5,291,743) was paid, and the amount of SAR (246,696) was deducted as a cash payment from the company to the owners and was deducted from their personal accounts. All bank statements supporting the fact of actual payments recorded in books and stated in the financial statements were also submitted. With regard to the item (Suppliers Who Have Completed a Full Year), Zakat Payer claims that this item must be deducted from zakat base, because a year has not passed on the full amount of this item. With regard to the item (Customers Paid Advance Payments that a Year Has Passed Thereon), Zakat Payer claims that this item must be deducted from zakat base, because a year has not passed on the full amount of this item. Zakat Payer requests that the Primary Department's Decision be overturned for the above stated reasons.

On Monday, 22/10/1443 AH, corresponding to 23/05/2022 AD, the Department decided to convene an electronic pleading hearing for 10 days. ZATCA submitted a replication in which it responded to Zakat Payer's appeal confirming its point of view before the Primary Department. Furthermore, with regard to the item (Cost of Chicks), ZATCA requested Zakat Payer to submit a statement from the general ledger of such expenses that was not submitted by Zakat Payer and thus his objection was rejected based on Article 20.3 of the Implementing Regulations for the Collection of Zakat. With regard to the item (Rents), ZATCA requested Zakat Payer to submit copies of these lease contracts and proof of payments, which Zakat Payer did not submit. Accordingly, his objection was rejected based on Article 20.3 of the Implementing Regulations for the Collection of Zakat. Regarding the item (Social Insurance), ZATCA bases its procedure on Article 5.1&4 and Article 20.3, of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. With regard to the item (Suppliers and Customers Paid Advance Payment), the item is one of zakat base's components, and due to mismatch of statements submitted by Zakat Payer, the balance at the beginning of the year or the end of the year, whichever is less, was taken based on Article 4.5, and Article 20.3 of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. ZATCA requests the distinguished Department not to accept any new Documents from Zakat Payer that have not been submitted during the examination and objection phase, and requests not to accept any new requests from Zakat Payer based on Article (186) of the Law of Procedure Before Sharia Courts. Accordingly, ZATCA adheres to validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the Primary Department's Decision be upheld for the reasons stated above.

On Tuesday, 08/11/1443 AH, corresponding to 07/06/2022 AD, and having perused the Primary Department's Decision, the Department found that there were material errors related to reference to the disputed year. The appealed Decision indicated in its Facts that its objection was to zakat tax assessment for 2010 AD, while the correct objection was to zakat assessment for 2011 AD, since Zakat Payer's assessment was zakat-based, and the

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disputed year that was addressed by that Decision is 2011 AD. Accordingly, based on the provisions of Article 38 of Tax Dispute and Violation Committee Procedures, this Department shall return that Decision to the First Department for Determination of Income Tax Violations and Disputes in Dammam to correct it, notify parties of the case, and then return the case to this Department to complete its consideration.

On Thursday, 24/11/1443 AH corresponding to 06/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, having perused the case file, and since it is established to the Department that ZATCA's assessment was after the lapse of legal period for making amendments to Zakat Payer's declaration of 2011, which is set at five years from the deadline for Zakat Payer to submit his zakat declaration for each year. Since these rules came in order to achieve stability of transactions, and not to leave positions of Zakat Payers anxious without specifying a certain period during which it becomes clear to them that their financial position will not be destabilized, which was proven in ZATCA's confrontation with Zakat Payer's objection. Since this matter does not result in Zakat Payer being released from legal obligation if his liability is actually occupied with that obligation, but rather its effect is represented in a procedural matter related to ZATCA's right to reopen assessments after the lapse of prescribed legal period. Therefore, the Department concludes that ZATCA's procedure to make these amendments is invalid, and decided to cancel ZATCA's assessment Decision on Zakat Payer regarding 2011, calculate zakat according to his declaration and overturn the Primary Department's Decision in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer/ ..... Company, under CR. NO. (.....) TIN No. (.....), against the First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-113) delivered in Case No. (ZI-6055-2019) in connection with Zakat assessment for 2011.

Second: On Merits:

Accept Zakat Payer's appeal, overturn Decision of the First Department for the Determination of Income Tax Violations and Disputes in Dammam, and overturn ZATCA's assessment Decision subject of the case, according to reasons and Grounds set forth in this Decision.

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Decision No. IR-2022-229
Case No. ZI-25724-2020

Keywords
Zakat - Accounts - Suppliers and Advance Payments That Have Completed a Full Year - Separation As One Item - Return the Case

Abstract

Appellant (Zakat Payer) filed his appeal seeking cancellation of the Primary Department's Decision No. (IZD-2020-113), on zakat assessment of 2016. Zakat Payer's appeal with regard to (Suppliers and Payments that have completed a full year) lies in objection to the Primary Department's upholding of ZATCA's procedure of subjecting amounts that a year has not passed thereon to zakat. Since this item consists of two elements, suppliers and advance payment customers. Since the Department's consideration of these two elements as a single item in the reasons and wording of Decision has resulted in Zakat Payer submitting his appeal on part of this item related to suppliers despite his approval of ZATCA's procedure regarding customers of advance payments. Therefor, Zakat Payer's appeal shall be accepted and the case shall be returned.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

The Department convened to consider the appeal filed on ../../... AH, corresponding to ../../...., filed by ..., holder of National ID No. (...) in his capacity as the attorney of Appellant Company under POA No. (...) against the First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-113) rendered in Case No. (ZI-6055-2019) related to zakat assessment for 2016 in Case filed by Appellant against ZATCA. Primary Department's Decision states:
In from: Accept the case in form.
On Merits: Dismiss Plaintiff's objection regarding the item (Suppliers and Customers of Advance Payments of 2016).
Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:
Zakat Payer objects to the appealed Decision of Primary Department, claiming that, with regard to the item (Suppliers and Advance Payments that Have Completed a Full Year), this item must be deducted from zakat base, because a year has not passed on the full amount of this item. Trial balance was attached to show the detailed movement, and a financial analysis was prepared for each account with the balance at the beginning of the year and method of payment. Therefore, balances paid at the beginning of the year are not

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carried forward and a year has not passed thereon, and therefore Zakat Payer requests that the Primary Department's Decision be overturned for the reasons stated above.

Since the Department decided to open up court proceedings, ZATCA submitted a replication dated 11/08/1442 AH, corresponding to 24/03/2021 AD, in which it responds to Zakat Payer's appeal confirming its point of view before the Primary Department. What Zakat Payer raised does not go beyond what he had previously submitted and ZATCA responded to in a timely manner. With regard to the item (Suppliers and Advance Payment Customers), ZATCA added the balances at the beginning and end of the period, whichever is less, considering that a year has passed thereon. ZATCA bases its procedure on Fatwa No. (226665) of 1424 AH and Fatwa No. (3077/2) of 1426 AH, and Article 4.4&5 of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. ZATCA requests the distinguished Department not to accept any new Documents from Zakat Payer that have not been submitted during the examination and objection phase, and therefore ZATCA upholds the validity and soundness of its procedure, and requests that Zakat Payer's appeal be dismissed and the Primary Department's Decision be upheld for the reasons stated above.

On Monday, 22/10/1443 AH, corresponding to 23/05/2022 AD, the Department decided to convene an electronic hearing for a period of 10 days, and the period passed without submitting an addition from parties to the appeal.

On Tuesday, 08/11/1443 AH, corresponding to 07/06/2022 AD, and having perused the Primary Department's Decision, the Department found that there were material errors related to reference to the disputed year. The appealed Decision indicated in its Facts that its objection was for zakat tax assessment for 2010 AD, but the Decision referred in its reasons to 2016 and 2015 AD, and referred in wording of the Decision to 2016 AD. Since assessment on Zakat Payer was zakat-based, and the disputed year addressed by the Decision was 2016 AD. Accordingly, based on the provisions of Article 38 of Tax Dispute and Violation Committee Procedures, this Department shall return that Decision to the First Department for Determination of Income Tax Violations and Disputes in Dammam to correct it, notify parties of the case, and then return the case to this Department to complete its consideration.

On Thursday, 24/11/1443 AH, corresponding to 23/06/2022 AD, and by reviewing memorandums and statements of appeal, and by examining papers and Documents contained in the case file, the Department decided that the case is ripe for adjudication and issuance of Decision on its subject. Accordingly, the Department decided to close the pleading and schedule the case for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, with regard to Zakat Payer's appeal on the item (Suppliers and Advance Payments that Have Completed a Full Year), since Zakat Payer's appeal lies in objection to the Primary Department's upholding of ZATCA's procedure of subjecting amounts that a year has passed thereon to zakat, while ZATCA has argued that it upholds validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the Primary Department's Decision be upheld. Having considered subject of the dispute, having examined papers contained in the case file, and since the Primary Department's Decision did not establish reasons for ZATCA's procedure on this item, despite its acknowledgement of Zakat Payer's objection when it listed the objected items at the

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beginning of its presentation of its point of view included in Facts of the Primary Department's Decision. It has been established that this item consists of two items, suppliers and customers of advance payments. Since the Primary Department considered these two elements as a single item on Grounds and wording of Decision, which resulted in Zakat Payer submitting his appeal on part of this item related to suppliers, despite his approval of ZATCA's procedure regarding customers of advance payments. Since the Primary Department did not explain in reasons of its Decision what justifies failure to consider these two items separately. Rules of justice require enabling Zakat Payer and ZATCA to litigate in a manner that enables both parties to object thereto and submit their appeal in accordance with the relevant rules that require submitting justifications that justify the appeal on the appealed item. Since the Primary Department adjudicated them as one item instead of addressing each of these two items separately. Therefore, this Department concludes to cancel the Primary Department's Decision, and returns the case to it to consider this item again after hearing point of view of both parties in the Suppliers item, and Advance Payments item, each separately.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer/ ..... Company, under CR. NO. (.....) TIN No. (.....), against the First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-113) delivered in Case No. (ZI-6055-2019) in connection with Zakat assessment for 2016.

Second: On Merits:

Cancel Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, and return the case to it to consider the item (Suppliers and Advance Payments that Have Completed a Full Year) again, according to reasons and Grounds contained in this Decision.

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Keywords

Zakat - Accounts - Long-Term Loans Against Assets - Short-Term Loans - Non-Commercial Creditors - Fixed Assets within Ownership

Abstract

Appellant (ZATCA/ Zakat Payer) filed this appeal seeking cancellation of the Primary Department's Decision No. (IZD-2020-148), regarding zakat assessment of 2014. With regard to Zakat Payer's appeal regarding the items (Long-Term Loans Against Assets of 2014) and (Short-Term Loans of 2014), since Zakat Payer's appeal lies in objection to the Primary Department's upholding of ZATCA's procedure of subjecting the full amount of two items to zakat. With regard to Zakat Payer's appeal regarding the item (Non-Commercial Creditors), since Zakat Payer's appeal lies in that the total additions during the year are less than loans added to the base to cover this item. With respect to Zakat Payer's appeal regarding the item (Import Differences) and having examined papers contained in the case file, and with regard to ZATCA's appeal regarding the item (Fixed Assets within Ownership Limits of 2014), since ZATCA's appeal lies in objection to the Primary Departmant's acceptance of Zakat Payer's objection to this item. Since it was established to the Department with respect to items (Long-Term Loans Against Assets of 2014) and (Short-Term Loans of 2014), and since it is evident from movement of notes payable, short-term loans and long-term loans on cash flow statement, that Zakat Payer has obtained during the year an amount of SAR (14752823), which is more than his need to finance the added assets by an amount of SAR (2838612), and it is evident from the item (Non-Commercial Creditors) that Decision did not rule on "Non-Commercial Creditors" item and did not discuss objection made by Zakat Payer to this item, which shows that the dispute is not settled on merits. With regard to the item (Import Differences), the Department established that the dispute regarding this item has settled by supporting Zakat Payer's point of view, and with regard to the item (Fixed Assets within Ownership Limits of 2014), and since the basis for calculating zakat base and determining the receivable thereon requires presence of money on which which zakat is due on Zakat Payer. Therefore, the Department decided to dismiss the item (Import Differences), dismiss appeal with regard to the item (Fixed Assets within Ownership Limits), amend the Primary Department's Decision on item (Short-Term Loans) and accept appeal on item (Non-Commercial Creditors).

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

The Department convened to consider appeal filed on ../../....AH, corresponding to ../../....AD, by ....., holding National ID No. (...), in his capacity as attorney of Appellant Company under POA No. (...), and appeal filed on ../../....AH, corresponding to ../../....AD from ZATCA against the First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-148) delivered in Case No. (Z-8005-2019) related to zakat assessment of 2014, filed by Appellant against ZATCA. Primary Department's Decision ruled as follows:

Accept Case of Plaintiff/ (.... Company), TIN No. (...), in form.

On Merits:

1. Proof that dispute in the item "Import Difference of 2014" was settled.
2. Dismiss the Plaintiff's objection to the item "Long-Term Loans Against Assets of 2014"
3. Dismiss the Plaintiff's objection to the item "Short-Term Loans of 2014"
4. Proof that dispute in the ite "Unapproved Expenses of 2014" was settled.
5. Accept the Plaintiff's objection to "Fixed Assets within Ownership Limits of 2014"

Dissatisfied with that Decision, both parties filed a statement of appeal summarized as follows:

With regard to Zakat Payer's appeal against the Primary Department's Decision, his appeal lies in the following: With regard to the item (Long-Term Loans against Assets of 2014), Zakat Payer claims that the Primary Department has concluded that long-term loans finance acquisition assets without regard to the Company's activity and financing of purchase operations, and since part of these loans are used to finance purchases, in addition to the fact that asset additions for this year is partly financed by cash flows and partners' current accounts, and these added amounts have not completed a full year. With regard to the item (Short-Term Loans of 2014), Zakat Payer claims that short-term loans are credit facilities issued to finance the company's activity and are issued on short periods, and these added amounts have not completed a full year. With regard to the item (Non-Commercial Creditors), Zakat Payer claims that ZATCA has indicated that financing of asset additions and capital projects of 2013 was done from the amount of loan, and also from the current account, which was included in the positive base in full, and since the total additions during the year are less than loans added to the base to cover this item, and accordingly he requests to cancel the adjustment to base by adding the balance of non-commercial creditors, since that amount is the balance of transactions with (...) company, which is a company that falls under the related parties item, where one of partners is a partner therein, and its relationship to the company is a commercial relationship, not a financing relationship, and all movement of debit or credit transactions during the year has not completed a full year, and the company's statement of account is attached. Therefore, Zakat Payer requests that the Primary Department's Decision on items subject of appeal be overturned for the above stated reasons.

ZATCA also dissatisfied with the Decision; therefore, ZATCA filed its appeal against the contested Decision under a statement of appeal summarized as follows:

With regard to the item (Fixed Assets within Ownership Limits of 2014), ZATCA explains that what was stated in Fatwa No. (23408) dated 18/11/1426 AH, in response to the fourth question, is considered supportive of ZATCA's procedure, as the net profit for the year subject of zakat assessment is not determined until after the accounts are closed at the end of the fiscal year. It cannot be said that purchase of fixed assets during the year was made from the net profits that have not yet been realized and are not actually determined until end of the year. Taking adjusted net profit for zakat purposes as a minimum is due to the fact that subjecting yield (profit) to zakat is a valid jurisprudential opinion for Zakat upon exploited items, and a Decision was issued by International Islamic Fiqh Academy in its second session, and Shariah Fatwa referred to above in the fourth question applies

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precisely if the cash available to the company was exploited in fixed assets or acquisition assets and balance of profits would decrease in return for that. Furthermore, ZATCA added that if the Department decides to uphold the appealed Decision, it shall have the right to reassess Zakat Payer by adding sources of financing that were not added to meet what is deducted from projects under implementation. Sources of financing must be added to meet deductions from the base until zakat equation becomes valid, or evidence that sources of financing for these projects were done without financing from banks must be provided. From an accounting perspective, profits (gains) are defined as an increase in rights of capital holders that generate either from an increase in current assets or a decrease in current liabilities, i.e. an increase in net current assets whenever that entity is developing and vice versa. In addition, restrictive interpretation of determining the zakat base will lead to withholding due zakat from its banks as the total negative elements deducted from the base was greater than the positive elements, even if the company was profitable. This leads to the fact that some major Zakat Payers from joint-stock companies, such as banks, hotels, real estate companies, transport companies and some industrial companies are not subject to zakat, although their funds are growing at clear rates, because the negative elements of base are greater than the positive elements, despite achieving large profits, on the one hand. On the other, according to accounting principles on which the financial statements are prepared, purchase of fixed assets is not considered a revenue expense charged to the income statement. Accordingly, profits of the year will not decrease with any purchase of fixed assets during the year, and profits of entire year appear in the statement of financial position on which zakat assessment is based. Financing of fixed assets purchase is of a cash or on credit and is not of a net accounting profit of the year, as disposition of profit according to accounting is limited to distributing profits to shareholders, increasing capital, forming reserves or covering losses carried forward from previous years. Zakat base, when determined, relies on financial statements prepared on accrual basis and base components of assets shown on those statements, including the profits recorded under this principle. Therefore, it is not inconceivable that entries are made from asset account to the profits account. Accordingly, it cannot be said that profits were used to purchase fixed assets or acquisition assets. In fact, its balance is not affected by decrease in the amount of sums used to purchase fixed assets, because profit balances are only affected by the accounting entries that are made on them, such as distribution to shareholders, replenishing reserves, increasing capital, and covering losses carried forward from previous years. Therefore, it is not appropriate to say that these fixed assets and their equivalents are offset by the accounting profits of the year. On the other hand, ZATCA explains that the company took the same action that ZATCA took, as in accordance with Note No. 14 of the financial statements notes, as well as the zakat declaration submitted by the company, it was found that it imposed zakat on the adjusted net profit, considering it a zakat base, because the base was negative, so how can the company object to a procedure it took? ZATCA also clarifies that if your esteemed Department decides to uphold the appealed Decision, it is entitled to re-assess the Plaintiff by adding funding sources that were not added to meet deductions from the projects in progress. Funding sources must be added to meet deductions from the base until zakat equation is completed, or evidence is submitted that the funding sources for these projects were obtained through means other than funding from banks. Furthermore, the Plaintiff did not provide ZATCA with any evidence that it used its net profits that must be subject to zakat in financing of assets or investments before the completion of a full year. In its annexed memorandum, Plaintiff also stated that these projects were financed through base elements without any documentary proof, which must be refuted, as it is an allegation without any substantiation. Therefore, ZATCA adheres to validity and soundness of its

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procedure, and requests that its procedure be upheld and that the Primary Department's Decision on item subject to ZATCA's appeal be overturned for the reasons stated above.
Since the Department decided to open up court proceedings, Zakat Payer submitted a replication dated 10/09/1442 AH, corresponding to 21/04/2021 AD, in response of ZATCA's appeal, in which it contained that the Primary Department had established that the dispute in adjustment of profits had settled and that zakat had become on the base, not on net profits, because the base was larger than profits. Therefore, deduction of fixed and rented assets was made in accordance with the law. Carrying out this procedure, the Primary Department applied the law and shariah law. Therefore, Zakat Payer requests that ZATCA's appeal be dismissed and the Primary Department's Decision on item subject of ZATCA's appeal be upheld.
On Monday, 22/10/1443 AH, corresponding to 23/05/2022 AD, the Department decided to convene an electronic pleading hearing for 10 days. ZATCA submitted a reolication in response of Zakat Payer's appeal, in which it adheres to validity and soundness of its procedure. Moreover, ZATCA bases its rejection of objection on Note No. 12 in the financial statements that such loans are for establishment of the factory, in addition to verifying passage of a year on these loans, as they are included among base elements in the submitted declaration. With regard to the item (Short-Term Loans for Disputed Years), Zakat Payer's objection to this item was rejected, as no explanatory statements are provided regarding movement of these loans, which confirms that a year has not passed thereon. Therefore, balances of the above items were subject to zakat at the beginning or end of the period, whichever is less, due to Zakat Payer's failure to cooperate in submitting the detailed transaction for each account payable separately. It was found that the account statement is inconsistent with balances in the financial statements. Therefore, ZATCA added the balances that have passed a year to zakat base in accordance with the financial statements that are in the company's liability, in application of Sharia Fatwas No. (2384/2) dated 30/10/1406 AH, No. (18497), dated 18/11/1408 AH, No. (22665), dated 15/01/1424 AH, No. (23408) of 1426 AH, which is considered in Islamic jurisprudence in adding funds benefited from others that have passed a year in zakat base, as well as short-term loans if used in fixed assets must be added to the base to offset deduction of fixed assets, and therefore these loans must be added to zakat base even if the lender is a related party to the borrower. This opinion is supported by the text of Fatwa No. (3077/2) dated 08/11/1426 AH. Therefore, ZATCA added balances included in the financial statements after comparing the balance at the beginning and end of the period and adding whichever is less. This was confirmed by Article Four of Clause One of the Implementing Regulations for the Collection of Zakat issued by Ministerial Decision No. 2082 dated 01/06/1438 AH. Since the Department issuing the Decision has established that Plaintiff did not submit the necessary legal Documents supporting what it requested, and considering that the burden of proof falls on Plaintiff based on the jurisprudential rule that: "Onus of proof lies with the plaintiff", and based on what is stipulated in Article 20.3 of the aforementioned Implementing Regulations for the Collection of Zakat. ZATCA requests the Department not to accept any new Documents that were not submitted during the examination and objection phases. It also requests the Department not to accept any new requests from Zakat Payer based on Article 186 of the Law of Procedure Before Sharia Courts. Therefore, ZATCA adheres to validity and soundness of its procedures and requests that Zakat Payer's appeal be dismissed and that the Primary Department's Decision on items subject of Zakat Payer's appeal be upheld for the reasons stated above.
On Thursday, 24/11/1443 AH corresponding to 23/06/2022 AD, having perused the Parties' submissions regarding appeal and responding to them, having examined papers and Documents contained in case file, the Department established that the case was ready

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for adjudication and issuance of Decision. Accordingly, the Department decided to close the pleadings and set the case for adjudication.

Grounds

Having reviewed case Documents and statement of appeal submitted from Zakat Payer and ZATCA, the Department found that conditions for hearing appeal have been fulfilled in form as per conditions stipulated in relevant laws, regulations and resolutions. Therefore, appeals are accepted in form for being filed by persons with capacity, and within the period prescribed by law for filling.

On merits, with regard to Zakat Payer's appeal regarding the items (Long-Term Loans Against Assets of 2014) and (Short-Term Loans of 2014), and since Zakat Payer's appeal lies in objection to the Primary Department's upholding of ZATCA's procedure of subjecting entire amount of these two items to zakat, as he claims that a year has not passed on them, while ZATCA argued that it upholds validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and that the Primary Department's Decision be upheld. Having considered subject of the case, having examined papers contained in the case file, and having reviewed the audited cash flow statement submitted by Zakat Payer to the Department, it was found that the net cash flow (after deducting cash flow obtained from the excluded assets) used by Zakat Payer to finance additions of fixed assets amounted to SAR (17666329), while the total cash amount available to Zakat Payer at the beginning of the year is SAR (3022953), and the realized cash flow is SAR (2729165), indicating a difference in the amounts required to finance added assets during the year by an amount of SAR (11914211). Since it is clear from movement of notes payable, short-term loans, and long-term loans in the cash flow statement that Zakat Payer received during the year an amount of SAR (14752823), that is, in excess of his need to finance the added assets in the amount of SAR 2838612. Therefore, the Department decided to reject Zakat Payer's appeal on the Long-Term Loans item, and to amend the Primary Department's Decision with regard to short-term loans by deciding to exclude an amount of SAR (2838612) from the total amount of short-term loans that ZATCA added to his zakat base amounting to SAR (2953533) because a year has not passed thereon or was used to finance the deducted assets.

With regard to Zakat Payer's appeal on the item (Non-Commercial Creditors), since Zakat Payer's appeal lies in the fact that the total additions during the year are less than loans added to the base to cover that item, while ZATCA argued that it adheres to validity and soundness of its procedure and requested that Zakat Payer's appeal be dismissed and the Primary Department's Decision be upheld. Having considered subject of the case, having examined papers contained in the case file, and having reviewed the Primary Decision, it was found that this Decision did not decide on the item "Non-Commercial Creditors" and did not discuss Zakat Payer's objection to this item, which shows that the dispute is not concluded on its merits. Therefore, the Department did not exhaust its jurisdiction to adjudicate on subject of the dispute, and to enable Zakat Payer to litigate on two degrees. Accordingly, this Department concluded to return the case to First Department for Determination of Income Tax Violations and Disputes, to consider subject of this item.

With regard to Zakat Payer's appeal on the item (Import Differences), and having examined papers contained in the case file, and since this Department has established that the dispute regarding this item has settled by upholding Zakat Payer's point of view, this Department concludes to dismiss this appeal.

With regard to ZATCA's appeal on the item (Fixed Assets within Ownership Limits of 2014), and since ZATCA's appeal lies in objection to the Primary Departmet's acceptance of Zakat Payer's objection to this item, claiming that taking adjusted net profit for zakat purposes as a minimum is due to the fact that subjecting yield (profit) to zakat is a valid

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jurisprudential opinion for zakat on exploited items, while Zakat Payer argued that he requests that ZATCA's appeal be dismissed and the Primary Department's Decision be upheld. Having considered subject of the case, having examined papers contained in the case file, and since basis for calculating the zakat base and identifying the receivable requires presence of the money on which zakat is due on Zakat Payer. Since calculation of net base requires exclusion of fixed assets, regardless of how they are financed to reach zakat base without being affected by whether the net base is less than the adjusted profit. Accordingly, the Department concludes to reject ZATCA's procedure regarding consideration of adjusted profit as the base. Since the Department did not notice any Grounds that requires correction or comment in the light of ZATCA's indication of its right to reassess Zakat Payer. Therefore, the Department Chamber concludes to reject ZATCA's appeal and uphold the Primary Department's Decision in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form from Zakat Payer/..... Company, CR No. (.....), TIN (.....), and appeal filed by ZATCA against the First Department for the Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-148) delivered in Case No. (Z-8005-2019) related to zakat assessment of 2014.

Second: On Merits:

1. Dismiss Zakat Payer's appeal regarding the item (Import Differences) according to the Grounds and reasons stated in this Decision.
2. Rejecti Zakat Payer's appeal regarding the item (long-Term Loans against Assets of 2014), and uphold the Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds and reasons stated in this Decision.
3. Amend the First Department for Determination of Income Tax Violations and Disputes in Dammam Decision on the item (Short-Term Loans of 2014) by excluding the amount of SAR (2838612) from the total amount of short-term loans added by ZATCA to Zakat Payer's zakat base because a year has not passed thereon or used to finance deducted assets, in accordance with reasons and Grounds set forth in this Decision.
4. Accept Zakat Payer's appeal regarding the item (Non-Commercial Creditors), return the case to the First Department for the Determination of Income Tax Violations and Disputes in Dammam for consideration of this item on merits, in accordance with reasons and Grounds set forth in this Decision.
5. Reject ZATCA's appeal regarding the item (Fixed Assets within Ownership Limits of 2014), and uphold the First Department for Determination of Income Tax Violations and Disputes in Dammam Decision, in accordance with reasons and Grounds set forth in this Decision.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-231
Case No. Z-37417-2021

Keywords
Zakat - Accounts - Zakat Expense - Owner's Credit Current Account - Creditor Banks - Investment Item - Unrealized Losses from Investments

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IZD-2020-281) regarding zakat assessment for years from 2011 to 2015. As for Zakat Payer's appeal regarding (Zakat Expense for 2015) item, Zakat Payer's appeal involves objecting to adding an amount of SAR 84,143 by ZATCA that is not reflected in the financial statements as a zakat expense. As for Zakat Payer's appeal regarding (Owner's Credit Current Account for 2015) item, Zakat Payer's appeal involves requesting that the addition of amounts to zakat base be limited to SAR 31,516,295 that completed a full year and excluding otherwise amounts. As for Zakat Payer's appeal regarding (Creditor Banks for 2015) item, Zakat Payer's appeal involves objecting to the addition of this item to zakat base. As for Zakat Payer's appeal regarding (Investments for 2015) item, Zakat Payer's appeal involves objecting to the addition of this item to zakat base. As for Zakat Payer's appeal regarding (Unrealized Losses from Investments for 2015) item, Zakat Payer's appeal involves objecting to the non-deduction of this item from zakat base. As for Zakat Payer's appeal regarding (Owner's Credit Current Account for 2014) item, Zakat Payer's appeal involves requesting that the addition of amounts to zakat base be limited to SAR 39,183,411 that completed a full year and excluding otherwise amounts. As for Zakat Payer's appeal regarding (Creditor Banks for 2014) and (Investments for 2014) items, Zakat Payer's appeal involves objecting to the addition of these two items to zakat base. As for Zakat Payer's appeal regarding (Unrealized Losses from Investments for 2014) item, Zakat Payer's appeal involves objecting to the non-deduction of this item from zakat base. As for Zakat Payer's appeal regarding (Owner's Credit Current Account for 2013) item, Zakat Payer's appeal involves requesting that the addition of amounts to zakat base be limited to SAR 42,313,681 that completed a full year and excluding otherwise amounts. As for Zakat Payer's appeal regarding (Creditor Banks for 2013) item and (Investments for 2013) item, Zakat Payer's appeal involves objecting to the addition of these two items to zakat base. Therefore, the Department accepts Zakat Payer's appeal regarding (Investments) item and (Unrealized Losses from Investments) item and dismisses otherwise requests.

Instruments:

- Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH
- Implementing Regulations of Income Tax Law issued by Minster of Finance Resolution No. (1030) dated 11/06/1425 AH

Facts:

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To consider appeal filed on ../../... AH corresponding to ../../... by ..., holder of National ID No. (...), in his capacity as Owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-281) rendered in Case No. (Z-7745-2019) regarding zakat assessment for years from 2011 to 2014 filed by Appellant against ZATCA. Primary Department's Decision states:

In from: Accept the Case in form filed by Plaintiff (... Enterprise), C.R. No. (...), TIN (...).

On Merits:

Establish resolution of the dispute regarding excess zakat expense for 2011 in accordance with Grounds of the Decision.

Establish resolution of the dispute regarding amendments of years preceding 2012 in accordance with Grounds of the Decision.

Regarding (Paid Zakat for 2012) item:

A. Establish resolution of the dispute regarding the amount of SAR 10,981 due to the fact that Defendant accepted Plaintiff's stance.
B. Dismiss objection filed by Plaintiff regarding the amount of SAR 62,648.

Dismiss all remaining items subject matter of the Case.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming the following: Regarding (Zakat Expense for 2015) item, legal zakat provision amounted to SAR 157,719 as shown in the financial statements. In addition, the net profit before legal zakat provision amounted to SAR 2,495,482. Zakat Payer also states that the financial statements do not reflect the amount of SAR 84,143 added by ZATCA as a zakat expense. Regarding (Owner's Credit Current Account for 2015) item, Zakat Payer claims that the balance of owner's credit current account amounted to SAR 48,250,387 at the beginning of year and SAR 47,645,713 at the end of year. In addition, the withdrawals before 19/12/2015 AD amounted to SAR 16,129,418, and the net deposits and withdrawals after 19/12/2015 AD amounted to SAR 19,071,855, respectively. Therefore, the amount that shall be added to zakat base, due to completing a full year, is SAR 31,516,295. Regarding (Creditor Banks Completed a Full Lunar Year for 2015), Zakat Payer claims that, based on the statement provided to ZATCA, it turns out that all creditor banks pertain to (…) Bank. In addition, several accounts were opened for control and project purposes. Since all accounts pertain to one bank, and based on the principle of unity in accounting, the debit and credit movements should be calculated for all accounts collectively, and may not be calculated for each account individually. Zakat Payer also points out that the entire balance at the beginning of year was settled. Accordingly, there are not amounts that completed a full year. Regarding (Investments for 2015) item, Zakat Payer claims that the investments at the end of year amounted to SAR 7,903,089 comprising of real estate investments amounting to SAR 7,144,776 and investments in company shares amounting to SAR 758,313. Zakat Payer stated that with respect to real estate investments, ZATCA deducted the value of two real properties related to Enterprise's business, but it did not accept deducting two other real properties in owner's name. In addition, Zakat Payer requests that if these investments are not accepted, the amount should be considered as owner withdrawals, which would decrease owner's credit current account. As for stock investments, there were no sales transactions, indicating that these are long-term investments that should be deductible. Regarding (Unrealized Losses from Investments for 2015) item, Zakat Payer claims that the unrealized losses from stock investments amounted to SAR 2,482,251 and this amount should be deducted from zakat base because the value of investments decreased by the amount of such losses. Regarding (Owner's Credit Current Account for 2014) item, Zakat Payer claims that the account balance was

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SAR 49,797,930 at the beginning of year, and that the balance at the end of year was SAR 47,645,713. Moreover, the withdrawals before 19/12/2014 AD amounted to SAR 10,614,519, and the net deposits and withdrawals after 19/12/2014 AD amounted to SAR 6,291,624. Therefore, the amount that completed a full year is SAR 39,183,411. Regarding the item (Creditor Banks for 2014) item, Zakat Payer claims that based on the statement provided to ZATCA, it turns out that all creditor banks pertain to (…) Bank. In addition, several accounts were opened for control and project purposes. Since all accounts pertain to one bank, and based on the principle of unity in accounting, the debit and credit movements should be calculated for all accounts collectively, and may not be calculated for each account individually. Zakat Payer also points out that the entire balance at the beginning of year was settled. Accordingly, there are not amounts that completed a full year. Regarding (Investments for 2014) item, Zakat Payer claims that the investments at the end of year amounted to SAR 8,313,641 comprising of real estate investments amounting to SAR 7,520,818 and investments in company shares amounting to SAR 792,823. Zakat Payer stated that with respect to real estate investments, ZATCA deducted the value of two real properties related to Enterprise's business, but it did not accept deducting two other real properties in owner's name. In addition, Zakat Payer requests that if these investments are not accepted, the amount should be considered as owner withdrawals, which would decrease owner's current account. As for stock investments, there were no sales transactions, indicating that these are long-term investments that should be deductible. Regarding (Unrealized Losses from Investments for 2014) item, Zakat Payer claims that the unrealized losses from stock investments amounted to SAR 1,223,870 and this amount should be deducted from zakat base because the value of investments decreased by the amount of such losses. Regarding (Owner's Credit Current Account for 2013) item, Zakat Payer claims that the account balance was SAR 49,797,930 at the end of year and SAR 48,637,061 at the beginning of year. Moreover, the withdrawals before 19/12/2013 AD and net deposits and withdrawals after 19/12/2013 AD amounted to SAR 6,323,380 and SAR 1,345,850 respectively. Therefore, the amount that should be added to zakat base is SAR 42,313,681. Regarding (Creditor Banks for 2013) item, Zakat Payer claims that based on the statement provided to ZATCA, it turns out that all creditor banks pertain to (…) Bank. In addition, several accounts were opened for control and project purposes. Since all accounts pertain to one bank, and based on the principle of unity in accounting, the debit and credit movements should be calculated for all accounts collectively, and may not be calculated for each account individually. Zakat Payer also points out that the amount that completed a full year is only SAR 1,889,883. Regarding (Investments for 2013) item, Zakat Payer claims that the investments at the end of year amounted to SAR 12,071,013 comprising of real estate investments amounting to SAR 11,020,818 and investments in company shares amounting to SAR 1,050,195. Zakat Payer stated that with respect to real estate investments, ZATCA deducted the value of two real properties related to Enterprise's business, but it did not accept deducting two other real properties in owner's name. In addition, Zakat Payer requests that if these investments are not accepted, the amount should be considered as owner withdrawals, which would decrease owner's current account. As for stock investments, there were no sales transactions, indicating that these are long-term investments that should be deductible. Regarding (Unrealized Losses from Investments for 2013) item, Zakat Payer claims that the unrealized losses from stock investments amounted to SAR 966,498 and this amount should be deducted from zakat base because the value of investments decreased by the amount of such losses. Regarding (Owner's Credit Current Account for 2012) item, Zakat Payer claims that owner's credit current account was SAR 39,628,621 at the beginning of year and SAR 41,409,573 at the end of year as shown in the financial statements. Moreover, the withdrawals, deposits and adjustments to owner's current account and transfers from retained earnings account

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amounted to SAR 14,842,959, SAR 13,998,235, SAR 2,989,964 and SAR 5,615,640 respectively. Therefore, the amount that should be added to zakat base is SAR 21,795,698. Regarding (Creditor Banks for 2012) item, Zakat Payer claims that based on the statement provided to ZATCA, it turns out that all creditor banks pertain to (…) Bank. In addition, several accounts were opened for control and project purposes. Since all accounts pertain to one bank, and based on the principle of unity in accounting, the debit and credit movements should be calculated for all accounts collectively, and may not be calculated for each account individually. Zakat Payer also points out the entire balance at the beginning of year was settled. Therefore, there are not amounts that completed a full year. Regarding (Investments for 2012) item, Zakat Payer claims that the investments at the end of year amounted to SAR 12,933,312 comprising of real estate investments amounting to SAR 12,050,817 and investments in company shares amounting to SAR 882,465. Zakat Payer stated that with respect to real estate investments, ZATCA deducted the value of two real properties related to Enterprise's business, but it did not accept deducting two other real properties in owner's name. In addition, Zakat Payer requests that if these investments are not accepted, the amount should be considered as owner withdrawals, which would decrease owner's current account. As for stock investments, there were no sales transactions, indicating that these are long-term investments that should be deductible. Regarding (Unrealized Losses from Investments for 2012) item, Zakat Payer claims that the unrealized losses from stock investments amounted to SAR 1,134,198 and this amount should be deducted from zakat base because the value of investments decreased by the amount of such losses. Regarding (Amendments of Years Preceding 2012) item, Zakat Payer claims that the assessment has not yet been amended based on the Decision accepting Enterprise's stance, and that the Enterprise is still being asked to pay zakat on this amount. Regarding (Owner's Credit Current Account for 2011) item, Zakat Payer claims that owner's credit current account and retained earnings was SAR 46,478,417 at the end of year and SAR 43,535,364 at the beginning of year. Moreover, the withdrawals before 19/12/2011 AD amounted to SAR 17,211,445, and net deposits and withdrawals after 19/12/2011 AD amounted to SAR 15,896,604, and profits of the year amounted to SAR 4,257,894. Therefore, the amount that should be added to zakat base is SAR 26,323,919 due to completing a full year. Regarding (Investments for 2011) item, Zakat Payer claims that the investments at the end of year amounted to SAR 12,258,717 comprising of real estate investments amounting to SAR 12,050,817 and investments in company shares amounting to SAR 207,900. Zakat Payer stated that with respect to real estate investments, ZATCA deducted the value of two real properties related to Enterprise's business, but it did not accept deducting two other real properties in owner's name. In addition, Zakat Payer requests that if these investments are not accepted, the amount should be considered as owner withdrawals, which would decrease owner's current account. As for stock investments, there were no sales transactions, indicating that these are long-term investments that should be deductible. Thereupon, Zakat Payer requests overturning Primary Department's Decision for the aforementioned reasons.

On Sunday, 29/05/1443 AH corresponding to 02/01/2022 AD, the Department decided holding remote litigation session for (10) days. Therefore, ZATCA submitted an answer wherein replies to Zakat Payer's appeal, by reiterating its previous position presented before Primary Department. Moreover, Zakat Payer's arguments do not differ from what previously submitted, to which ZATCA has already answered at that time. Regarding (Owner's Credit Current Account for 2011-2015) item, ZATCA insists on Primary Department's Decision, as it aligns with ZATCA Circular No. (1432/16/583) dated 29/01/1432 AH concerning zakat calculation of partners'/owners' current account. In addition, the dispute between ZATCA and Zakat Payer is document-based, and Zakat Payer has not provided evidence supporting its claim. Regarding (Real Estate Investments

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and Stock Investments in Companies for 2011-2015) item, ZATCA insists on Primary Department's Decision, as it aligns with Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH and Ministerial Letter No. (8676/4) dated 24/12/1440H. Regarding (Creditor Banks with a Full Lunar Year for 2012-2015) item, ZATCA insists on Primary Department's Decision, as it aligns with Paragraph (5) of Article (4) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. Regarding (Unrealized Losses from Investment for 2012-2014) item, ZATCA insists on Primary Department's Decision, as it aligns with Paragraph (2) of Article (6) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH and Ministerial Letter No. (8676/4) dated 24/12/1440 AH. In addition, the dispute between ZATCA and Zakat Payer is document-based, and that Zakat Payer has not provided supporting evidence. Regarding (Zakat Expense for 2015) item, ZATCA insists on Primary Department's Decision, as it aligns with the judicial principle "The burden of proof lies with the claimant". In addition, Zakat Payer did not provide Documents that support its claim. Moreover, ZATCA requests the Department to dismiss any new petitions submitted by Zakat Payer in accordance with Article (186) of the Law of Civil Procedure. Thereupon, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On Wednesday, 17/10/1443 AH corresponding to 18/05/2022 AD, as for Zakat Payer's appeal regarding (Owner's Credit Current Account for years from 2013 to 2015) item, the Department, having taken cognizance of Zakat Payer's appeal, asked Zakat Payer to provide a comprehensive analysis based on general ledger accounts. This analysis should elaborate the amount that completed a full year and reconcile it with the audited financial statements for years from 2013 to 2015. As for Zakat Payer's appeal regarding (Creditor Banks for years from 2013 to 2015) item, Zakat Payer claims that a full year has not passed on the balance payable to (...) Bank. Thereupon, this Department asked Zakat Payer to provide bank statements for years from 2013 to 2015, provided that each statement elaborates the opening balance, amounts paid out of that opening balance, any loans obtained throughout the year and closing balance. within (15) days from that date.

On Wednesday, 06/11/1443 AH corresponding to 18/05/2022 AD, as for Zakat Payer's appeal regarding (Owner's Credit Current Account for years from 2013 to 2015) item, the Department, having taken cognizance of Zakat Payer's appeal, asked Zakat Payer for the second time to provide a comprehensive analysis based on general ledger accounts. This analysis should elaborate the amount that completed a full year and reconcile it with the audited financial statements for years from 2013 to 2015. As for Zakat Payer's appeal regarding (Creditor Banks for years from 2013 to 2015) item, Zakat Payer claims that a full year has not passed on the balance payable to (...) Bank. Thereupon, this Department asked Zakat Payer to provide bank statements for years from 2013 to 2015, provided that each statement elaborates the opening balance, amounts paid out of that opening balance, any loans obtained throughout the year and closing balance. within (15) days from that date.

On Thursday, 24/11/1443 AH corresponding to 06/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in

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form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Having taken cognizance of Case file and ZATCA assessment, the Department found that the assessment was made on 26/07/1439 AH. Thereupon, the assessment for 2011 and 2012 was made more than five years following the statutory period for ZATCA entitlement to assess Zakat Payers. The Department found that ZATCA assessment was made after expiry of statutory period for amendment to Zakat Payer's declaration, which is five years from the deadline for filing Zakat Payer's declaration for each year. It is worth noting that these rules are established to maintain transaction stability and prevent instability of Zakat Payers' financial positions in case of lack of a timeframe that ensures maintaining their financial positions. Since this matter does not result in releasing Zakat Payer from its legal obligation if Zakat Payer is already concerned with fulfilling such obligation but rather outlines a procedural issue with relation to ZATCA entitlement to assess Zakat Payer after expiry of statutory period. Therefore, the Department concluded that ZATCA procedure outlined in making such amendments was invalid. Accordingly, the Department accepts Zakat Payer's appeal and overturns Primary Department's Decision regarding the contested items for 2011 and 2012.

As for Zakat Payer's appeal regarding (Zakat Expense for 2015) item, Zakat Payer's appeal involves objection to ZATCA addition of an amount of SAR 84,143 that is not reflected in the financial statements as zakat expense. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute and Documents included in Case file, the Department found that the dispute between the parties involves ZATCA addition of an amount of SAR 84,143 that is not reflected in the financial statements as zakat expense. Having reviewed zakat declaration for the year in question, the Department found that the revenues were not decreased by zakat expense. Therefore, such revenues should not be added to the net profit. In addition, ZATCA argument that zakat expense in the trial balance does not match the financial statements is not valid, as the inclusion of the amount in trial balance does not indicate that it is a final amount due to the fact that the trial balance is not considered a final financial statement, because it is subject to adjustments according to accounting practices. In addition, the existence of this expense does not mean that it is deducted from profit for zakat purposes. Since ZATCA did not provide any evidence to justify deviating from data presented in the financial statements. Therefore, the Department accepts Zakat Payer's appeal and overturns the Decision rendered the First Department for Determination of Income Tax Disputes and Violations in Dammam regarding this item.

As for Zakat Payer's appeal regarding (Owner's Credit Current Account for 2015) item, Zakat Payer's appeal involves request to limit the addition to zakat base to the amount of SAR 31,516,295, as this is the amount that had completed a full year and excluding otherwise amounts. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and overturning Primary Department's Decision. Having taken cognizance of subject matter of the dispute, Documents included in Case file and Zakat Payer's appeal. Since the dispute is document-based on its merits. Since Zakat Payer did not provide Documents that support its claim before this Department. Since this Department found that Primary Department's conclusion subject matter of appeal is valid, and that the reasons upon which the Decision was based are sufficient to uphold it. Therefore, this Department dismisses Zakat Payer's appeal and upholds Primary Department's Decision regarding this item.

As for Zakat Payer's appeal regarding (Creditor Banks for 2015) item, Zakat Payer's appeal involves objection to adding this item to zakat base. In addition, Zakat Payer claims that

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the opening balance was fully paid, and that there are not amounts that completed a full year. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and overturning Primary Department's Decision. Having taken cognizance of subject matter of the dispute and Documents included in Case file. Since the dispute is document-based on its merits. Since Zakat Payer did not provide Documents that support its claim before this Department with regard to passage of a full year on balance payable to (...) Bank. Since this Department found that Primary Department's conclusion subject matter of appeal is valid, and that the reasons upon which the Decision was based are sufficient to uphold it. Therefore, this Department dismisses Zakat Payer's appeal and upholds Primary Department's Decision regarding this item.

As for Zakat Payer's appeal regarding (Investments for 2015) item, Zakat Payer's appeal involves objection to adding this item to zakat base by ZATCA. In addition, Zakat Payer claims that there is not any movement on investments, which indicates that they are long-term investments and deductible. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute and Documents included in case file, the Department found that this item comprises real properties and stocks. Since Zakat Payer is assessed based on its statutory accounts, the rejection of deducting real estate from zakat base on the ground that it is not used in business activities must be balanced by excluding the same amount from total equity in accordance with the principle of balance in financial statements. This principle states that every asset in the balance sheet corresponds financing on liability and equity side. Since ZATCA has not proven that the non-deducted real properties are considered trading assets and did not exclude a corresponding amount from equity to reflect these non-deducted assets, Zakat Payer is entitled to deduct these real properties from its zakat base. As for investment in shares of Saudi companies, since it turns out that these shares were not held for trade and there was no evidence of active sale activity. Therefore, Zakat Payer shall be entitled to deduct such investments from its zakat base. Therefore, this Department accepts Zakat Payer's appeal and overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam regarding this item.

As for Zakat Payer's appeal regarding (Unrealized Losses from Investments for 2015) item, Zakat Payer's appeal involves objecting to non-deducting this item from zakat base. In addition, Zakat Payer claims that losses shall be deducted from zakat base because investment value decreased by the mount of such losses. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute and Documents included in Case file, the Department found that the dispute pertains to unrealized losses resulting from long-term investments in company shares. Since the accounting treatment of unrealized losses in investments requires recognizing loss in income statement and decreasing investment balance by the amount of loss. Thereupon, Zakat Payer is entitled to deduct the loss for zakat calculation purposes in return for deducting investment from zakat base decreased by the amount of such loss. Therefore, this Department accepts Zakat Payer's appeal and overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam regarding this item.

As for Zakat Payer's appeal regarding (Owner's Credit Current Account for 2014) item, Zakat Payer's appeal involves request to limit the addition to zakat base to the amount of SAR 39,183,411, as this is the amount that had completed a full year and excluding otherwise amounts. On the other hand, ZATCA insists on accuracy and correctness of its

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procedure and requests dismissing Zakat Payer's appeal and overturning Primary Department's Decision. Having taken cognizance of subject matter of the dispute, Documents included in Case file and Zakat Payer's appeal. Since the dispute is document-based on its merits. Since Zakat Payer did not provide Documents that support its claim before this Department. Since this Department found that Primary Department's conclusion subject matter of appeal is valid, and that the reasons upon which the Decision was based are sufficient to uphold it. Therefore, this Department dismisses Zakat Payer's appeal and upholds Primary Department's Decision regarding this item.

As for Zakat Payer's appeal regarding (Creditor Banks for 2014) item, Zakat Payer's appeal involves objection to adding this item to zakat base. In addition, Zakat Payer claims that the opening balance was fully paid, and that there are not amounts that completed a full year. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and overturning Primary Department's Decision. Having taken cognizance of subject matter of the dispute and Documents included in Case file. Since the dispute is document-based on its merits. Since Zakat Payer did not provide Documents that support its claim before this Department with regard to passage of a full year on balance payable to (...) Bank. Since this Department found that Primary Department's conclusion subject matter of appeal is valid, and that the reasons upon which the Decision was based are sufficient to uphold it. Therefore, this Department dismisses Zakat Payer's appeal and upholds Primary Department's Decision regarding this item.

As for Zakat Payer's appeal regarding (Investments for 2014) item, Zakat Payer's appeal involves objection to adding this item to zakat base by ZATCA. In addition, Zakat Payer claims that there is not any movement on investments, which indicates that they are long-term investments and deductible. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute and Documents included in case file, the Department found that this item comprises real properties and stocks. Since Zakat Payer is assessed based on its statutory accounts, the rejection of deducting real estate from zakat base on the ground that it is not used in business activities must be balanced by excluding the same amount from total equity in accordance with the principle of balance in financial statements. This principle states that every asset in the balance sheet corresponds financing on liability and equity side. Since ZATCA has not proven that the non-deducted real properties are considered trading assets and did not exclude a corresponding amount from equity to reflect these non-deducted assets, Zakat Payer is entitled to deduct these real properties from its zakat base. As for investment in shares of Saudi companies, since it turns out that these shares were not held for trade and there was no evidence of active sale activity. Therefore, Zakat Payer shall be entitled to deduct such investments from its zakat base. Therefore, this Department accepts Zakat Payer's appeal and overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam regarding this item.

As for Zakat Payer's appeal regarding (Unrealized Losses from Investments for 2014) item, Zakat Payer's appeal involves objecting to non-deducting this item from zakat base. In addition, Zakat Payer claims that losses shall be deducted from zakat base because investment value decreased by the mount of such losses. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute and Documents included in Case file, the Department found that the dispute pertains to unrealized losses resulting from long-term investments in company shares. Since the accounting treatment of unrealized losses in investments

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requires recognizing loss in income statement and decreasing investment balance by the amount of loss. Thereupon, Zakat Payer is entitled to deduct the loss for zakat calculation purposes in return for deducting investment from zakat base decreased by the amount of such loss. Therefore, this Department accepts Zakat Payer's appeal and overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam regarding this item.

As for Zakat Payer's appeal regarding (Owner's Credit Current Account for 2013) item, Zakat Payer's appeal involves request to limit the addition to zakat base to the amount of SAR 42,313,681, as this is the amount that had completed a full year and excluding otherwise amounts. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and overturning Primary Department's Decision. Having taken cognizance of subject matter of the dispute, Documents included in Case file and Zakat Payer's appeal. Since the dispute is document-based on its merits. Since Zakat Payer did not provide Documents that support its claim before this Department. Since this Department found that Primary Department's conclusion subject matter of appeal is valid, and that the reasons upon which the Decision was based are sufficient to uphold it. Therefore, this Department dismisses Zakat Payer's appeal and upholds Primary Department's Decision regarding this item.

As for Zakat Payer's appeal regarding (Creditor Banks for 2013) item, Zakat Payer's appeal involves objection to adding this item to zakat base. In addition, Zakat Payer claims that the opening balance was fully paid, and that there are not amounts that completed a full year. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and overturning Primary Department's Decision. Having taken cognizance of subject matter of the dispute and Documents included in Case file. Since the dispute is document-based on its merits. Since Zakat Payer did not provide Documents that support its claim before this Department with regard to passage of a full year on balance payable to (...) Bank. Since this Department found that Primary Department's conclusion subject matter of appeal is valid, and that the reasons upon which the Decision was based are sufficient to uphold it. Therefore, this Department dismisses Zakat Payer's appeal and upholds Primary Department's Decision regarding this item.

As for Zakat Payer's appeal regarding (Investments for 2013) item, Zakat Payer's appeal involves objection to adding this item to zakat base by ZATCA. In addition, Zakat Payer claims that there is not any movement on investments, which indicates that they are long-term investments and deductible. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute and Documents included in case file, the Department found that this item comprises real properties and stocks. Since Zakat Payer is assessed based on its statutory accounts, the rejection of deducting real estate from zakat base on the ground that it is not used in business activities must be balanced by excluding the same amount from total equity in accordance with the principle of balance in financial statements. This principle states that every asset in the balance sheet corresponds financing on liability and equity side. Since ZATCA has not proven that the non-deducted real properties are considered trading assets and did not exclude a corresponding amount from equity to reflect these non-deducted assets, Zakat Payer is entitled to deduct these real properties from its zakat base. As for investment in shares of Saudi companies, since it turns out that these shares were not held for trade and there was no evidence of active sale activity. Therefore, Zakat Payer shall be entitled to deduct such investments from its zakat base. Therefore, this Department accepts Zakat Payer's appeal and overturns the Decision rendered by the First Department

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for Determination of Income Tax Violations and Disputes in Dammam regarding this item.

As for Zakat Payer's appeal regarding (Unrealized Losses from Investments for 2013) item, Zakat Payer's appeal involves objecting to non-deducting this item from zakat base. In addition, Zakat Payer claims that losses shall be deducted from zakat base because investment value decreased by the mount of such losses. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having taken cognizance of subject matter of the dispute and Documents included in Case file, the Department found that the dispute pertains to unrealized losses resulting from long-term investments in company shares. Since the accounting treatment of unrealized losses in investments requires recognizing loss in income statement and decreasing investment balance by the amount of loss. Thereupon, Zakat Payer is entitled to deduct the loss for zakat calculation purposes in return for deducting investment from zakat base decreased by the amount of such loss. Therefore, this Department accepts Zakat Payer's appeal and overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam regarding this item.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No (IZD-2020-281) rendered in Case No. (Z-7745-2019) regarding zakat assessment for years from 2011 to 2015.

Second: On Merits:

1. Accept Zakat Payer's appeal regarding all appealed items for years from 2011 to 2012 and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam regarding such items according to reasons and Grounds stated herein.
2. Accept Zakat Payer's appeal regarding (Zakat Expense for 2015) item and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam according to reasons and Grounds stated herein.
3. Dismiss Zakat Payer's appeal regarding (Owner's Credit Current Account for 2015) and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam according to reasons and Grounds stated herein.
4. Dismiss Zakat Payer's appeal regarding (Creditor Banks for 2015) and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam according to reasons and Grounds stated herein.
5. Accept Zakat Payer's appeal regarding (Investments for 2015) and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam according to reasons and Grounds stated herein.
6. Accept Zakat Payer's appeal regarding (Unrealized Losses from Investments for 2015) and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam according to reasons and Grounds stated herein.
7. Dismiss Zakat Payer's appeal regarding (Owner's Credit Current Account for 2014) and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam according to reasons and Grounds stated herein.

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8. Dismiss Zakat Payer's appeal regarding (Creditor Banks for 2014) and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam according to reasons and Grounds stated herein.
9. Accept Zakat Payer's appeal regarding (Investments for 2014) and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam according to reasons and Grounds stated herein.
10. Accept Zakat Payer's appeal regarding (Unrealized Losses from Investments for 2014) and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam according to reasons and Grounds stated herein.
11. Dismiss Zakat Payer's appeal regarding (Owner's Credit Current Account for 2013) and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam according to reasons and Grounds stated herein.
12. Dismiss Zakat Payer's appeal regarding (Creditor Banks for 2013) and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam according to reasons and Grounds stated herein.
13. Accept Zakat Payer's appeal regarding (Investments for 2013) and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam according to reasons and Grounds stated herein.
14. Accept Zakat Payer's appeal regarding (Unrealized Losses from Investments for 2013) and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam according to reasons and Grounds stated herein.

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Decision No. IR-2022-233
Case No. Z-28856-2020

Keywords
Zakat - Accounts - Transfer of Ownership of Enterprise- Liability of Enterprise is Inseparable from Liability of its Owner - Zakat Debt is Personal Debt - Years Subject to Assessment

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Department Decision No. (IZD-2020-202), regarding zakat assessment for 2011 and 2012. Zakat payer's appeal is based on its objection that the Primary Department dismissed its claim in form. The Department found that ZATCA had assessed zakat on (…), and that the ownership of the Enterprise had been transferred to (…) after the disputed years, as evidenced by the Enterprise's commercial registration. However, zakat assessment was issued in the name of the previous Owner of the Enterprise. The Department further noted that the financial liability of the enterprise is inseparable from the liability of its owner. Therefore, the Department accepts Zakat Payer's appeal.

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

The Department convened to consider the Appeal filed on .../..../.... AH, corresponding to ..../...../..... AD, by/ …, ID. No. (…), in his capacity as the Owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-202) issued in Case No. (Z-10316-2019), in connection with Zakat assessment for 2011 and 2012, filed by the Appellant against ZATCA, in which the primary Decision ruled as follows:

Dismiss the Case of Plaintiff, (…), ID No.(…), Owner of Enterprise (…), C.R. No. (…), in form, as the Plaintiff did not object to zakat assessment for 2011 and 2012 when it was conducted by the Defendant.

Since Zakat Payer (... Enterprise) was dissatisfied with this Decision, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat payer is objecting to appealed Decision issued by the Primary Department claiming that when ZATCA conducted the assessment, ZATCA did not prove receipt by notification as it currently does. Additionally, Zakat payer asserts that the individual who owned the Enterprise is now deceased, and Zakat payer wishes to verify the exact amount of zakat owed to clear his debt by having their case heard on merits. Therefore, Zakat payer requests overturning of the appealed Decision for the aforementioned reasons.

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On Monday, 22/10/1443 AH corresponding to 23/05/2022 AD, the Department decided to hold a 10-day e-hearing session. During that period, ZATCA submitted a Reply to answer Zakat payer's appeal maintaining its argument submitted before the primary Department, and also claiming that the initial Decision should be considered final, as the amount in dispute does not exceed fifty thousand based on Article (42.1) of the Tax Dispute and Violation Committee Procedures. Furthermore, the Reply states that Zakat payer did not file its objection within the prescribed time frame as stipulated in Article (22) of the Implementing Regulations for Zakat Collection issued in 1438 AH. ZATCA requests that the Department doesn't accept any new requests from Zakat payer based on Article (186) of the Law of Civil Procedures. In conclusion, ZATCA maintained validity and correction of its procedure requesting dismissal of Zakat payer's appeal and upholding of the primary Decision for the aforementioned reasons.

Grounds

On Sunday, 27/11/1443 AH, corresponding to 26/06/2022 AD, and by reviewing appeal memoranda and replies thereto, and examining Documents of the Case file, the Department decided that the case is ready for adjudication and issuance of Decision on its subject. Accordingly, the Department decided to close the pleading and schedule the case for adjudication.

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat payer's appeal centers on objecting to the Primary Department's Decision to reject its claim in form. Zakat payer argues that he was not the owner of the Enterprise at the time of the assessment and therefore did not object to the assessment within the prescribed time frame. However, ZATCA maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons. Having carefully examined the subject matter of the dispute and Documents of the Case file, the Department has found that ZATCA's assessment was made against (…). However, the ownership of the enterprise was transferred to (…) after the disputed years, as evidenced by the Enterprise's commercial registration. However, zakat assessment was issued in the name of the previous Owner of the Enterprise. Since financial liability of an enterprise is inseparable from its owner. Therefore, zakat debt is considered a personal debt of the enterprise's owner during the years subject to the assessment. Based on these findings, this Department concludes that ZATCA is not entitled to claim zakat from Zakat payer (…) for the years prior to his ownership of the Enterprise. The fact that Zakat payer did not initially object to the assessment before ZATCA does not affect this conclusion, as he was not Zakat payer liable for zakat during the years subject to the assessment. Therefore, his claim does not pertain to an assessment of zakat against him. Consequently, this Department decides to uphold Zakat payer's appeal, overturn the primary Decision, and declare that ZATCA is not entitled to claim zakat from (…) for the years prior to his ownership of the enterprise.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal filed by Zakat payer/ (.....) Enterprise, CR. No. (.....), TIN No.(.....), against First Department for Determination of Income Tax Violations and

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Disputes in Dammam Decision No. (IZD-2020-202), issued in Case No. ((Z-10316-2019), in connection with Zakat assessment for 2011 and 2012.

Second: On Merits: Accept the appeal filed by Zakat payer and overturn the Decision issued by First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds and merits mentioned therein.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-234
Case No. Z-26830-2020

Keywords

Zakat - Accounts - Assessment Amounts not Representing Realized Revenues - Failure to Prove Claim

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IFR-2020-42), regarding zakat assessment for 1436. Zakat payer's appeal centers on the assertion that not all of the estimated assessed amounts in dispute represent realized revenue during zakat year. However, the Department has established that Zakat payer has failed to provide evidence to support its claim that the amounts on which zakat was calculated for the enterprise do not represent all of its revenue. As such, the Department, hereby, ruled to dismiss Zakat payer's appeal.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued pursuant to Minister of Finance Decision No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on 12/02/1442 AH, corresponding to 29/09/2020 AD, by/ (...), ID. No. (…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-42) issued in Case No. (Z-8713-2019), related to Zakat assessment for 1436 AH, filed by the Appellant against ZATCA, in which the primary Decision ruled as follows:

Dismiss the objection filed by the Plaintiff/ ....., (TIN No. .....), against the Decision issued by the Defendant/ZATCA in connection with Zakat assessment for 1435 AH, subject matter of the Case.

Dissatisfied with this Decision, Zakat Payer (...) submitted a statement of appeal summarized as follows:

Zakat payer is objecting to the appealed primary Decision, as it is claiming that the profit margin percentage stated in the Decision lacks a clear and explicit mandatory provision for determining the exact 15% rate. The percentage actually ranges between 10% and 15%, and there are also certain expenses that have not been taken into account. Therefore, Zakat payer objects to the Decision and requests to overturn the appealed Decision for the aforementioned reasons.

On Monday,22/10/1443 AH, corresponding to 23/05/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal. In summary, ZATCA requests that the case not be dismissed due to Zakat payer's failure to properly prepare it and for not fulfilling the form and procedures

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stipulated in Article (41) of the Law of Civil Procedures and Article (8) of the Tax Dispute and Violation Committee Procedures.

On Tuesday, 29/11/1443 AH corresponding to 28/06/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat payer's appeal is based on the argument that the disputed estimated assessment amounts do not fully represent the realized revenues during Zakat year. However, ZATCA maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons. Having reviewed Zakat payer's appeal and examined the Case file, and considering that Zakat payer has failed to prove its claim that the amounts on which zakat was calculated for the Enterprise do not represent all of its revenue, and given that this Department has ascertained the correctness of the Primary Department's conclusion and that the reasons upon which it based its Decision are sufficient to uphold it, this Department therefore decides to reject Zakat payer's appeal and uphold the primary Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal filed by Taxpayer (.....), CR. NO. (.....), TIN No. (.....), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-42) issued in Case No. (Z-8713-2019) in connection with Zakat assessment for 1436 AH.

Second: On Merits: Dismiss the appeal filed by Zakat payer and uphold the Decision issued by First Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the Grounds and merits mentioned therein.

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Keywords
Zakat - Accounts - Suppliers - Liabilities Against Leased Assets - Land - Addition of Financing to Zakat Base

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (IZJ-2020-142) regarding zakat assessment for 2016. Regarding Zakat payer's appeal concerning the items (Suppliers), (Liabilities against leased assets), and (Land), Zakat payer's appeal is based on its objection to the Primary Department's upholding of ZATCA's Decision to exclude the balance of these items from zakat base. The Department has found, with respect to item (suppliers), that Zakat payer has paid a total of (SAR 15,501,270.99)from the opening balance of (SAR 17,799,672.71), leaving a balance of (SAR 2,298,401.72), as a whole lunar year has passed on this amount. Regarding the item (liabilities against leased assets), the applicable fatwas related to this item state that any financing obtained by Zakat payer, regardless of its source or classification, is added to zakat base when a full lunar year has passed or when it finances an asset that has been deducted from zakat base. Regarding the item (land), the audited financial statements are considered a valid document for proving the amounts related to zakat base. Therefore, the Department ruled to accept the appeal with respect to (suppliers) and (land), and reject the appeal with respect to (liabilities against leased assets).

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

To consider appeal filed on ../../... AH corresponding to ../.../... AD, by ..., ID No. (...) in his capacity as the Appellant Company's Attorney under POA No. (…), against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-142), issued in Case No. (Z-9265-2019), in connection with zakat assessment for 2016, filed by the Appellant against ZATCA, in which the Primary Department's Decision ruled as follows:

First: In form: Accept the case filed by the Plaintiff (.....Compan), under C.R. No. (...) in form.

Second: On Merits:

1. Dismiss the objection filed by the Plaintiff (.....Co.),regarding the item (Suppliers),in accordance with the merits mentioned therein.

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2. Dismiss the objection filed by the Plaintiff (.....Co.),regarding the item (Liabilities against leased assets),in accordance with the merits mentioned therein.
3. Dismiss the objection filed by the Plaintiff (.....Co.),regarding the item (Land),in accordance with the merits mentioned therein.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

Zakat payer is objecting to the Primary Department's Decision. It claims that regarding the item (suppliers) a balance of (SAR 6,534,711) should be deducted from zakat base for 2016. It argues that these suppliers do not qualify as "lenders" because the Company did not receive loans from them in cash that could be recycled multiple times during the year or used for various financing activities within the Company. Therefore, the fatwa issued by Mufti in Letter no. 3077/2 dated 08/11/1426 AH does not apply to its balances. Consequently, the accounting and zakat treatment applied to the suppliers in the Company's accounts and the resulting account balances are correct. The movement of the suppliers' balances has been submitted to the Primary Department and is included in the statement of appeal. Regarding the item (liabilities against leased assets), Zakat payer claims that leased assets should be deducted. It argues that these assets are not owned by the entity but are leased with an option to purchase at the end of the contract. Consequently, the cash value of purchasing these assets is calculated upon contract signing and is recorded in the 'entity's assets account. Conversely, an equal liability is recorded in the 'entity's liabilities account. This serves as the basis for the consumption of the asset, the repayment of the liability, and the associated financing costs. If the contract ends or is not completed, both the asset and the corresponding liability must be excluded from the books, and any profit or loss is calculated accordingly. All of this is in accordance with the accounting treatment outlined in the Saudi Lease Accounting Standard, which is mandatory for all activities conducted within KSA, regardless of their legal form. Regarding the item (land), Zakat payer asserts that the land should be included in zakat base for 2016. It claims that the area where the land is located does not have title deeds but only contracts, as attached. A warehouse has been built on this land for the purposes of the Appellant Company's business. Therefore, Zakat payer requests overturning of the primary Decision based on the aforementioned reasons.

The Department decided to open pleadings. Therefore, ZATCA submitted a Reply dated 09/04/1442 AH (corresponding to 24/11/2020 AD), responding to Zakat payer's appeal. In its Reply, ZATCA reaffirmed its position presented before the Primary Department. Regarding the item (suppliers), ZATCA stated that it had added suppliers' balance that had passed a full lunar year, amounting to (SAR 6,534,711), to zakat base, in accordance with Fatwa No. (1570/2) of 1405 AH, Fatwa No. (2384/2) dated 30/10/1406 AH, Fatwa No. (18497) dated 18/11/1408 AH, and Fatwa No. (22665) dated 15/01/1424 AH in response to the second question, and Fatwa No. (23408) of1426 AH, Based on Article (4.5) of the Implementing Regulations for Zakat Collection issued in 1438 H. With respect to the item (liabilities against leased assets), ZATCA added the amount that had passed a full lunar year of the liabilities balance, amounting to (SAR 1,955,789), on the premise that the origin of the obligation on the liabilities side is matched by a fixed asset that has been deducted from zakat base. This is in accordance with Fatwa No. (22665) dated 15/01/1424 AH, and Fatwa No. (23408) of 1426 AA. With respect to the item (land), it is a condition for deducting land from zakat base that ownership is proven, or that reasons are provided for why the ownership has not been transferred in the Company's name. Zakat payer has not provided any supporting Documents. Therefore, deducting these amounts from zakat base is not accepted in accordance with Article (4.1) of the Implementing Regulations for Zakat Collection issued in 1438 AH, and Article (20.3), of the same Regulations. Accordingly, ZATCA maintains the validity and correctness of its procedures and requests

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the dismissal of Zakat payer's appeal and upholding of primary Decision for the aforementioned reasons.

On Monday, 22/10/1443 AH, corresponding to 23/05/2022 AD, the Department decided to convene an electronic hearing for a period of 10 days, and the period passed without submitting an addition from parties to the appeal.

On Tuesday, 29/11/1443 AH corresponding to 28/06/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, regarding Zakat payer's appeal concerning the item (suppliers), Zakat payer's appeal centers on its objection to the appealed primary Decision to uphold ZATCA's action of not deducting the balance of this item from zakat base. Zakat payer claims that the suppliers do not have the status of lenders. However, ZATCA has maintained the correctness and validity of its procedure and requests to dismiss Zakat payer's appeal and uphold the primary Decision. Upon reviewing the balance movements of suppliers' accounts provided by Zakat payer along with its appeal, it was found that Zakat payer paid a total of (SAR 15,501,270.99) from the opening balance of (SAR 17,799,672.71), leaving a balance of (SAR 2,298,401.72), as a full lunar year has passed on this amount. This Department decides to amend the primary Decision by reporting the addition of (SAR 2,298,401.72) to Zakat payer's zakat base, and exclude the remaining amount disputed in this item.

As for zakat payer’s appeal regarding the item (liabilities against leased assets), Zakat payer's appeal centers on its objection to the appealed primary Decision to uphold ZATCA's action of not deducting the balance of this item from zakat base. Zakat payer claims that these are leased assets that are not owned by the entity and will only be owned upon contract termination. However, ZATCA has maintained the correctness and validity of its procedure and requests to dismiss Zakat payer's appeal and uphold the primary Decision. After reviewing Zakat payer's appeal and examining the Case file, and finding that there is no dispute between the parties regarding the passage of one full lunar year on the disputed amounts or that they financed assets deducted from zakat base, and given that the application of the relevant fatwas related to this item indicates that any financing obtained by Zakat payer, regardless of its source or classification, is added to zakat base once a lunar year has passed or if it finances an asset deducted from the base, this Department therefore decides to reject Zakat payer's appeal.

Regarding Zakat payer's appeal concerning the item (land), Zakat payer's appeal centers on its objection to the appealed primary Decision to uphold ZATCA's Decision not to deduct the balance of this item from zakat base. It claims that the land is located in an area where there are no title deeds, and a warehouse has been built on it for the purposes of the income-generating activity subject to zakat. However, ZATCA has maintained the correctness and validity of its procedure and requests to dismiss Zakat payer's appeal and uphold the primary Decision. Given that Zakat payer calculates zakat based on its systematic accounts and audited financial statements, and since any asset in the balance sheet is matched by a corresponding funding amount to balance the budget, and given

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that the rejection of deducting a non-zakatable asset from zakat base necessitates the exclusion of an equal amount from the sources of funding, and that ZATCA rejected deducting the asset but did not simultaneously exclude a corresponding funding amount, and that the impact on zakat base is the same whether the asset and its funding are excluded or retained, and that the audited financial statements are a document relied upon to prove amounts related to zakat base, the Department therefore has decided to accept Zakat payer's appeal and overturn the primary Decision in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal filed by Zakat payer/ Company (....), CR. NO. (…), TIN No (…), against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No (IZJ-2020-142) issued in Case No. (Z-9265-2019) in connection with zakat assessment for 2016.

Second: On Merits:

1. Accept Zakat payer's appeal regarding the item (suppliers), and amend the Decision issued by First Department for Determination of Income Tax Violations and Disputes in Jeddah to include (SAR 2,298,401.72) to Zakat payer's zakat base, excluding the rest, based on the Grounds and merits mentioned herein.
2. Dismiss Zakat payer's appeal regarding the item (liabilities against leased assets), and uphold the Decision issued by First Department for Determination of Income Tax Violations and Disputes in Jeddah, based on the Grounds and merits mentioned herein.
3. Accept Zakat payer's appeal regarding the item (land), and overturn the Decision issued by First Department for Determination of Income Tax Violations and Disputes in Jeddah, based on the Grounds and merits mentioned herein.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-238
Case No. ZI-59099-2021

Keywords
Zakat - Accounts - Reopening Assessments - Investments in Real Estate and Lands Under Development - Foreign Investments - Domestic Investments

Abstract

Appellant (ZATCA) requested cancellation of the Primary Decision No. (IZD-2021-428) on zakat assessment for the period (2006-2017 AD) with regard to Item (Reopening Assessments), Item (Investments in Real Estate and Lands Under Development), Item (Foreign Investments), and Item (Domestic Investments). With regard to Item (Reopening Assessments), the Department found that this matter did not result in releasing Zakat Payer from its legal obligation if it was actually concerned with fulfilling such obligation, but rather represented a procedural matter related to ZATCA right to reopen zakat assessments after expiration of the legally prescribed period. As for Item (Investments in Real Estate and Lands Under Development), these lands in their current condition were not offered for sale due to the difficulty of developing the same, and also the company was unable to develop, dispose, and sell such lands. Regarding Item (Foreign Investments), the Department did not observe matters that deserve correction or commentary in light of Documents provided by ZATCA to the Department. Concerning Item (Domestic Investments), it was evidenced that ZATCA accepted to deduct such domestic investments. Therefore, the Department decided to disregard the Case in terms of Item (Domestic Investments) and reject all other items.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

To consider the appeal filed on .. /.. /...., corresponding to .. /...../....., by ZATCA against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2021-428) issued in Case No. (Z-15567-2020) related to Zakat assessment for the period (2006-2017 AD) in the Case filed by Zakat Payer against ZATCA, in which the Primary Department decided as follows:

1. Cancel Defendant Decision with regard to Item (Reopening Assessments) for the Period (2006-2013 AD).
2. Cancel Defendant Decision with regard to Item (Short-Term Loans) for the period (2006-2013 AD), and reject Plaintiff objection for the period (2014 - 2017 AD).
3. Cancel Defendant Decision with regard to Item (Partner Receivables) for the period (2006-2013 AD), and reject Plaintiff objection for the period (2014 - 2017 AD).

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4. Cancel Defendant Decision with regard to Item (Investments in Real Estate and Lands Under Development) for the period (2006-2017 AD).
5. Cancel Defendant Decision with regard to Item (Foreign Investments) for the Period (2006-2017 AD).
6. Confirm settlement of the dispute with regard to Item (Investments Available for Sale) for the period (2014-2017 AD).
7. Cancel Defendant Decision with regard to Item (Investments Available for Sale) for the Period (2006-2013 AD).
8. Reject Plaintiff objection regarding the Item (Bad Debts) for the year 2017 AD.
9. Confirm settlement of dispute with regard to Item (Requested for Investors) for the period (2006-2017 AD).

Dissatisfied with this Decision, Appellant (ZATCA) submitted a statement of appeal summarized as follows:

ZATCA challenged the Primary Department Decision under appeal. With regard to Item (Reopening Assessments for the period (2006–2013 AD), ZATCA indicated that the Primary Department decided to cancel collection of zakat due from Zakat Payer without a legal basis. As such, the Primary Department Decision ignored the zakat collection entitlement acknowledged by Zakat Payer itself in its declaration. Moreover, Zakat Payer did not submit zakat declarations for the period (2006–2009 AD). Therefore, ZATCA action shall be deemed valid in accordance with Article (21.8.B) of Implementing Regulation for Zakat Collection. With regard to the period (2010–2013 AD), Zakat Payer failed to submit its declarations to ZATCA on the legally prescribed date; therefore, ZATCA Decision shall be deemed valid in accordance with Article (21.8.C) of Implementing Regulation for Zakat Collection. As for Item (Short-Term Loans for the Period 2006–2013 AD), ZATCA added the loans that completed one year based on the opening balance or closing balance, whichever is lower, on the basis that it was the balance that completed one year, in accordance with Article (4.I.5) of Implementing Regulation for Zakat Collection. Concerning Item (Partner Receivables for the Period 2006-2013 AD), ZATCA added partner receivables based on the opening balance or closing balance, whichever is lower, to zakat base on the basis that it was the balance completing one year. After considering Zakat Payer objection, it became clear that Zakat Payer perspective was correct in part, and therefore, the Department accepted its objection for some years. Also, the Department did not examine the extent of the amendments made by ZATCA concerning the Item being appealed. Concerning Item (Investments in Real Estate and Lands Under Development for the period 2006–2017 AD), Zakat Payer failed to provide any supporting Documents justifying the reasons for the non-implementation of the projects that it demanded to be deducted. Therefore, Zakat Payer objection was rejected in accordance with Paragraph (III) of Fatwa No. (2384/2) dated 1406 AH, Fatwa No. (22644) dated 1424 AH, and Article (4.II.2) of Implementing Regulation for Zakat Collection. With regard to Item (Foreign Investments for the period 2006–2017 AD), ZATCA excluded investments in foreign companies from deduction, as such investments were ineffective investments, and Zakat Payer failed to present the relevant certified audited financial statements and also failed to submit declarations proving zakat application, so they were not deducted in accordance with Article (4.II.4.B) of Implementing Regulation for Zakat Collection. As for Item (Domestic Investments), such investments were by nature current investments that shall not be deducted from zakat base, as they did not represent direct investments in companies for the purpose of ownership (acquisition). Also, the acquisition period is not the only criterion for considering investments performed for the purpose of ownership (acquisition). Accordingly, Zakat Payer objection was rejected in accordance with Article (4), Clause (II), Paragraph (4.B) of Implementing Regulation for Zakat Collection. Regarding Item

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(Investments Available for Sale for the Period 2006-2013 AD), ZATCA deducted that Item for some years, not all years, and also Zakat Payer failed to provide Documents describing the movement of such investments, so Zakat Payer objection was rejected in accordance with Article (4), Clause (II), Paragraph (4.C) of Implementing Regulation for Zakat Collection. Accordingly, ZATCA requested reversal of the Primary Department Decision on the items being appealed based on the abovementioned Grounds.

The Department decided to open pleadings, and Zakat Payer submitted a Reply dated 11/02/1443 AH, corresponding to 18/09/2021 AD, in which Zakat Payer responded to ZATCA Appeal. In summary, such Reply indicated that Zakat Payer confirmed the validity of the Primary Department Decision and also confirmed prescription for the period (2006–2013 AD) concerning all items, the subject matter of the Case. With regard to Item (Reopening Assessments for the Period 2006–2013 AD), Zakat Payer indicated that ZATCA waived its right to collect legal zakat, and the Legislator has specified a period for performing assessments for companies and collecting legal zakat when issuing related regulations. Zakat Payer also declared that ZATCA statements concerning failure to provide declarations are completely incorrect, as such declarations were submitted at the prescribed date and certificates were obtained from ZATCA branch in Dammam. As for Item (Short-term Loans for the Period 2006–2013 AD), ZATCA representative only discussed prescription in the Primary Department session. As for Item (Partner Receivables), ZATCA ignored that Zakat Payer did not raise any objection to this Item for all years but rather rejected the same for the period (2014–2017 AD) due to a material error with relation to these years. Concerning Item (Investments in Real Estate and Lands Under Development), ZATCA arbitrarily rejected that item in spite of its statement that Zakat Payer submitted the Documents supporting its objection and that such Item involved purchasing and developing lands with the intention of leasing or acquisition for a long period and then selling the same according to market conditions, which indicated that the company intention was acquisition rather than trading. With regard to Item (Foreign Investments), ZATCA statements about failure to submit audited financial statements were not true, as such statements were submitted on 16/03/2020 AD, but ZATCA ignored the email sent in this regard. Regarding Item (Investments Available for Sale), ZATCA statements about failure to submit the analysis were not true, as a schedule of investments available for sale, including all investments side by side with opening and closing balances, was submitted, which indicated that investment holding in such case was for the purpose of acquisition, rather than speculation or trading. Therefore, Zakat Payer requested dismissal of ZATCA Appeal and confirmation of the Primary Department Decision based on the abovementioned Grounds.

On (....), .. /../.. corresponding to .. /../.., the Department decided to hold an e-pleading session for (10) days, but the period lapsed without submitting any addition statements or Documents by litigants of Appeal.

On (....) ..... /../.. corresponding to .. /../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by ZATCA, the Department found that the formal requirements for appeal hearing have been met as stipulated by the relevant laws, regulations and Decisions. Therefore, the appeal is accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

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On merits, the Department reviewed Case file, and with regard to Item (Reopening Assessments), ZATCA filed its appeal to challenge cancellation of ZATCA Decision with regard to this Item by the Primary Department. ZATCA claimed that the Primary Department has ceased collection of due zakat without a legal basis and ignored Zakat Payer statements confirming zakat entitlement. On the other hand, Zakat Payer requested rejection of ZATCA Appeal and confirmation of the Primary Department Decision. Having reviewed Documents submitted by both litigants, the Department was satisfied that Zakat Payer submitted zakat certificates to ZATCA branch in Dammam, which confirmed that Zakat Payer has submitted declarations for the disputed years. The Department was satisfied that ZATCA assessment for the period (2006–2013 AD) was performed after the expiry of the period prescribed by law for making amendments to Zakat Payer declaration, which is five years from the deadline for submitting Zakat Payer declaration for each year. It is worth noting that these rules are established to maintain transaction stability and prevent instability of taxpayer positions in case of absence of a timeframe that ensures maintaining their financial positions not jeopardized, which was proven in ZATCA position against Zakat Payer objection. Since this matter does not result in releasing Zakat Payer from its legal obligation if it is already concerned with fulfilling such obligation, it rather represents a procedural issue with relation to ZATCA right to reopen assessments after the expiry of the period prescribed by law. Therefore, the Department concluded that the action taken by ZATCA for making amendments was invalid. Accordingly, the Department decided to cancel ZATCA assessment for the period (2006–2013 AD), the subject matter of Appeal, and reject ZATCA Appeal concerning the appealed items for the period (2006–2013 AD).

Concerning Item (Investments in Real Estate and Lands Under Development for the Period 2014–2017 AD), ZATCA filed its Appeal to challenge cancellation of ZATCA action concerning this item by the Primary Department. ZATCA claimed that Zakat Payer failed to submit Documents justifying the reasons for the non-implementation of such projects requested to be deducted. Zakat Payer requested rejection of ZATCA Appeal and confirmation of the Decision taken by the Primary Department. Upon reviewing defenses and Documents provided by both litigants, it turned out that the dispute happened as a result of ZATCA objection to the Primary Department Decision confirming settlement of uncompleted land developments and projects. After reviewing Documents attached to Case file, it was evidenced that Zakat Payer submitted the supporting Documents proving suspension and noncompletion of disputed projects and land developments. Since ZATCA failed to provide any evidence or proof of the intention to sell such lands in their current condition and there was no indication of such intention, such uncompleted land development and projects should not have been considered trade offers, and therefore, it was decided to exclude the same from the Zakat base of Zakat Payer since such lands in their current condition were not offered for sale as a result of the difficulty of developing them and the company inability to develop, dispose, and sell the same later. So, ZATCA Appeal was not filed based on an actual and valid basis. Therefore, the Department decided to reject ZATCA Appeal and uphold the Decision taken by the Primary Department in accordance with the reasons and Grounds mentioned herein.

With regard to Item (Foreign Investments), ZATCA filed its Appeal to challenge cancellation of ZATCA Appeal concerning this Item by the Primary Department. ZATCA claimed that investments in foreign companies were excluded from deductions because such investments were not actual, and Zakat Payer failed to provide certified audited financial statements or any other evidence proving zakat application. Zakat Payer requested rejection of ZATCA Appeal and confirmation of the Decision taken by the Primary Department . Since Zakat Payer has submitted the audited financial statements related to these companies to the Primary Department, since the Department did not

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observe any matters that deserve correction and commentary in light of the Documents provided by ZATCA, since the Department was satisfied with the validity of the conclusion reached by the Primary Department, the Department decided to reject ZATCA Appeal and uphold the Decision taken by the Primary Department based on the Grounds thereof. With regard to ZATCA statements related to domestic investments, it became clear that the dispute is limited to foreign investments after reviewing the appealed Decision. Since ZATCA has approved deduction of such domestic investments, the Department decided to discharge ZATCA Appeal with regard to domestic investments.

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

Decision

First: In form, accept the Appeal filed by ZATCA against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2021-428) issued in Case No (Z-15567-2020) in connection with zakat assessment for the period (2006-2017 AD).

Second: On Merits:

1. Dismiss ZATCA Appeal with regard to appealed items for the period (2006-2013 AD), cancel ZATCA Decision concerning zakat assessment for the period (2006-2013 AD), and uphold the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Dammam with regard to Item (Reopening Assessments for the Period 2006-2013 AD), based on the Grounds and merits mentioned herein.
2. Dismiss ZATCA Appeal regarding Item (Investments in Real Estate and Lands Under Development for the Period 2014-2017 AD), and uphold the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Dammam in accordance with Grounds and merits mentioned herein.
3. Dismiss ZATCA Appeal regarding Item (Foreign Investments for the Period 2014-2017 AD), and uphold the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Dammam in accordance with Grounds and merits mentioned herein.
4. Disregard ZATCA Appeal regarding Item (Domestic Investments) according to the Grounds and reasons mentioned herein.

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Decision No. IR-2022-246
Case No. Z-25587-2020

Keywords
Zakat Zakat - Accounts - Intangible Assets - Reverse the Primary Department Decision

Abstract

Appellant (Zakat Payer) filed this Appeal to request cancellation of the Primary Department Decision No. (ISZR-2020-136) on zakat assessment for the period (2009-2014 AD). With regard to Item (Intangible Assets), Zakat Payer filed this Appeal to challenge endorsement of ZATCA action represented in non-deduction of that item from zakat base, since the audited financial statements constituted an evidence for the intangible asset. Therefore, the Department accepts Zakat Payer's appeal.

Instruments:

- Zakat Law promulgated by Royal Decree No. (17/28/577) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

To consider the appeal filed on .. /../... corresponding to .. /.../..., by (.....) Company, against the Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-136) issued in Case No. (Z-5400-2020) with relation to zakat assessment for the period (2009-2014 AD), filed by Appellant against ZATCA, in which the Primary Department decided as follows:
First: Accept the Case filed by Plaintiff\ .... Company, C.R. No. (...) in form.
Second: On Merits:

1. Confirm settlement of the dispute related to Item (Partner Current Accounts).
2. Dismiss the Case with relation to Item (Intangible Assets).

Since Zakat Payer (... Company) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:
Zakat Payer challenged the appealed Decision taken by the Primary Department. With relation to Item (Intangible Assets), Zakat Payer claimed that such assets were financed through capitalizing a part of programming staff costs. Zakat Payer also argued that the unavailability of files was particularly related to (the source files) that include developed websites and software codes, which constitute the disputed intangible assets, while the accounting Documents were attached, as if they were considered expenses and were not sent, there would not be any differences, other than that the Company declared bankruptcy on paper since 2011 AD. Therefore, Zakat Payer claimed reversal of the appealed Primary Department Decision based on the abovementioned Grounds.
On Sunday, 21/10/1443 AH corresponding to 22/05/2022 AD, the Department decided to hold an e-pleading session for (10) days, in which ZATCA submitted a Reply responding to Zakat Payer Appeal. In summary, ZATCA confirmed in this Reply its perspective

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presented before the Primary Department. Also, Zakat Payer did not provide any statements that go beyond its previous statements, which ZATCA has responded to at the time. As for the appealed item, ZATCA performed zakat assessments in light of information available in financial statements in accordance with Article (5.1) and (20.3) of Implementing Regulation for Zakat Collection issued in 1438 AH since ZATCA has requested the item related supporting Documents but Zakat Payer failed to do the same. Accordingly, ZATCA requested the Department to reject any further Documents that were not provided previously during examination and objection stages. ZATCA requested the Department not to accept any requests from Zakat Payer in accordance with Article (186) of Law of Civil Procedures. Therefore, ZATCA maintained the validity and integrity of its action, and requested rejection of Zakat Payer Appeal and confirmation of the Primary Department Decision based on the abovementioned Grounds.

On Thursday, 01/12/1443 AH corresponding to 30/06/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat Payer filed its Appeal with regard to Item (Intangible Assets) to challenge the Primary Department Decision that confirmed ZATCA action, which resulted in non-deduction of this item from zakat base. Zakat Payer claimed that such assets were financed through capitalizing a part of programming staff costs. While ZATCA argued that it maintains the validity and integrity of its action and requested rejection of Zakat Payer Appeal and confirmation of the Primary Department Decision. Upon reviewing Zakat Payer Appeal and examining Documents and papers contained in Case file and based on the Facts of the appealed Decision and the Appeal Brief, the Department found that the dispute happened as a result of ZATCA rejection of deducting the intangible asset item due to unavailability of Documents supporting the source of such assets. However, Zakat Payer confirmed that such assets existed as a result of the method of capitalizing programmers' expenses and other expenses incurred by Zakat Payer to develop such assets, as Zakat Payer attached a sample of accounting Documents, including invoices, payment vouchers, and a copy of ARQAMI license application, an accounting and administrative program. Since Zakat Payer is held accountable for zakat based on its audited financial statements that include the intangible assets item, and whereas such audited financial statements are considered as an evidence of the existence of such intangible assets; therefore, the Department decided to accept Zakat Payer Appeal and reverse the Primary Department Decision with regard to this item.

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

Decision

First: In form, accept the Appeal filed by Zakat Payer / ..... Company , CR. No. (...), TIN No (...), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISZR-2020-136) issued in Case No. (Z-5400-2020) in connection with zakat assessment for the period (2009 -2014 AD).

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Second: On Merits: Accept the Appeal filed by Zakat Payer regarding Item (Intangible Assets) and reverse the Decision taken by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with Grounds and merits mentioned herein.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-249
Case No. Z-26288-2020

Keywords
Zakat - Accounts - Zakat Re-assessment - Financial Statements - Confirm of the Primary Department Decision

Abstract

Appellant (Zakat Payer) filed this Appeal to request cancellation of the Primary Department Decision No. (ISZR-2020-116) on 2017 zakat assessment. Zakat Payer Appeal was made in objection to the Primary Department endorsement of ZATCA action related to zakat assessment. The Department was satisfied that ZATCA assessment was based on financial statements held in the Qawaem Program, noting that such financial statements were audited by a chartered accountant. Also, Zakat Payer argued that the items contained in such statements were just unsupported assumptions devoid of credible proof and failed to present the amended audited financial statements to back up its arguments. Accordingly, the Departments decided to reject the Appeal and uphold the Decision taken by the Primary Department. Therefore, the Department dismisses the appeal and upholds Primary Department's Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (17/28/557) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

To consider the appeal filed on .. /../... corresponding to .. /../... filed by ..., holder of National ID No. (...), in its capacity as owner of Appellant Institution, against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-116) issued in Case No. (Z-3243-2019) related to 2017 zakat assessment, filed by Appellant against ZATCA, in which the Primary Department decided as follows: Accept the Case filed by Plaintiff/(....), holding National ID No. (.....), in his capacity as owner of (... Institution), C.R. No. (...), in form, and reject the Case on merits.
Since this Decision was not accepted by Zakat Payer (..... Institution), Zakat Payer filed an appeal brief that included the following, in summary:
Zakat Payer raised an objection to the appealed Decision taken by the Primary Department, as it claimed that the balance sheet preparation errors were due to ignorance of the necessary requirements rather than deliberate errors. Additionally, Zakat Payer challenged ZATCA Decision to reopen zakat assessment as a result of discrepancies emerging as a result of its action, not because of financial statements. Therefore, Zakat Payer requested reversal of the Primary Department Decision based on the abovementioned grounds.

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On Sunday, 21/10/1443 AH corresponding to 22/05/2022 AD, the Department decided to hold an e-pleading session for (10) days, in which ZATCA submitted a Reply responding to the Appeal filed by Zakat Payer. In summary, such Reply confirmed ZATCA opinion presented before the Primary Department, and that Zakat Payer used to submit estimated declarations and hold accountability based thereon. Later, ZATCA found that there were Zakat Payer financial statements held in Qawaem Program, so ZATCA amended the declaration based on the data and information contained therein, which were completely different from Zakat Payer actual obligations. Accordingly, ZATCA amended the estimated declaration by recognizing accounts based on the balance sheet data in accordance with the provisions of Article (21.8.C) and Article (20.3) of Implementing Regulation for Zakat Collection issued in 1438 AH. Therefore, ZATCA requested that the Department reject any further Documents submitted by Zakat Payer that were not presented previously during the examination and objection stages. ZATCA also requested that the Department reject any new requests submitted by Zakat Payer in accordance with Article (186) of Law of Civil Procedures. Therefore, ZATCA maintained the validity and integrity of its action and requested rejection of Zakat Payer Appeal and confirmation of the Primary Department Decision based on the abovementioned grounds.

On Tuesday, 08/11/1443 AH corresponding to 07/06/2022 AD, First Appellate Department for Income Tax Violations and Disputes convened to consider the Appeal filed against the Primary Department Decision issued in Case No. (Z-2019-3243) filed by Appellant against Respondent. Zakat Payer claimed invalidity of some items mentioned in financial statements held in Qawaem Program. So, the Department requested Zakat Payer to submit amended audited financial statements to back up its claim, within (30) days from the date. Therefore, Zakat Payer submitted some Documents.

On Tuesday, 20/12/1443 AH corresponding to 19/07/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat Payer appeal centered around challenging the Primary Department confirmation of ZATCA action to reassess zakat base. Zakat Payer claimed that the declaration errors were not intentional and did not raise any objection to reopening zakat assessment but rather objected to discrepancies resulting from ZATCA action. While ZATCA maintained the validity and integrity of its action and requested dismissal of Zakat Payer Appeal and confirmation of the Primary Department Decision. Having reviewed Case file, the Department was satisfied that ZATCA assessment was based on financial statements held in the Qawaem Program, noting that such financial statements were audited by a chartered accountant. Also, Zakat Payer argued that the items contained in such statements were just unsupported assumptions devoid of credible proof and failed to present the amended audited financial statements to back up its arguments. Since such audited financial statements included data that would affect zakat assessment, which confirmed the validity of ZATCA action concerning reopening assessments. This did not conflict with Zakat Payer claim that the new information was incorrect and exaggerated, since Zakat Payer failed to submit any evidence proving correction of those statements

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after its claims concerning the errors contained therein, despite the passage of several years during which several financial statements have been issued. Therefore, the Department decided to dismiss Zakat Payer Appeal and uphold the Primary Department Decision in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, accept the Appeal filed by Zakat Payer/ (...) Institution, C.R. (...), TIN No. (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-116) issued in Case No. (Z-3243-2019) on 2017 zakat assessment.

Second: On Merits:

Dismiss appeal filed by Zakat Payer and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh according to reasons and Grounds stated herein.

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Keywords

Zakat Zakat - Accounts - Emergency Circumstances - Confirm the Primary Department Decision

Abstract

Appellant (Zakat Payer) filed its Appeal to request cancellation of the Primary Department Decision No. (Z-109-2018) on zakat assessment for the period (2006-2009 AD). Zakat Payer claimed that Zakat reported profits should have been excluded from the results of the previous years and investment final balances. The Department was satisfied with the validity of the conclusion reached by the Primary Department and that the Grounds adopted for taking such Decision were sufficient to support the same. As such, the Department, hereby, ruled to dismiss Zakat payer's appeal.

Instruments:

- Zakat Law promulgated by Royal Decree No. (17/28/577) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

The Department convened a session to consider the Appeal filed on 20/08/1441 AH corresponding to 13/04/2020 AD, by (....), holder of National ID No. (.....), in his capacity as the Appellant Company Attorney, under POA No. (...), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IR1) issued in Case No. (Z-109-2018) in connection with tax assessment for the period (2006-2009 AD), filed by Appellant against ZATCA, in which the Primary Department Decision ruled as follows:

Dismiss the Case filed by Plaintiff/ (.....) Company, C.R No....., against Defendant/ ZATCA, for being filed after expiration of the legally prescribed period.

Since this Decision was not accepted by Zakat Payer (..... Company); , Zakat Payer filed an appeal brief that included the following, in summary:

Zakat Payer challenged the appealed Decision taken by the Primary Department, as it claimed that Zakat reported profits should have been excluded from the results of the previous years and investment final balances. Zakat Payer also claimed that even if its declaration included financial statements that are excluded from zakat by mistake, ZATCA should correct the same. Therefore, Zakat Payer requested reversal of the Primary Department Decision being appealed based on the abovementioned Grounds.

On Tuesday, 26/08/1442 AH corresponding to 08/04/2021 AD, the Department decided to hold an e-pleading session for 10 days, in which ZATCA submitted a Reply responding to Zakat Payer Appeal. In summary, ZATCA maintained in such Reply its argument

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submitted before the Primary Department. Aso, Zakat Payer failed to file its Appeal within the legally prescribed period in accordance with Article (40) of Tax Dispute and Violation Committee Procedures. Zakat Payer also failed to file its objection before the Primary Department during the legally prescribed period in accordance with Clause (1) of Ministerial Resolution No. (32/961) dated 22/04/1418 AH. Therefore, ZATCA maintained the validity and integrity of its action and requested dismissal of Zakat Payer Appeal and confirmation of the Primary Department Decision.

On Thursday, 29/12/1443 AH corresponding to 28/07/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

COVID-19 pandemic is considered an exceptional and unusual incident, and general precautions were taken in response to such an unexpected incident, including curfew and restrictions on movement and travel between cities and neighborhoods within some cities in addition to suspending attendance at work offices of governmental entities. As a result, many accounting and law firms specializing in filing appeals against judicial Decisions related to zakat and tax on behalf of taxpayers/zakat payers suspended their business activity. The consequences of COVID-19 pandemic are considered a public incident that cannot be controlled, anticipated, or prevented by Appellant. Therefore, the reason for delay in filing the Case before this Department cannot be examined or attributed to Zakat Payer negligence or failure. Since preventing the harm caused by missing the opportunity to appeal the Primary Department Decision due to widespread pandemics is consistent with the established principle that no obligation that cannot be fulfilled or verified for a reason out of Zakat Payer control may be imposed. Accordingly, the Department decided to accept the Appeal in form.

On merits, upon reviewing Zakat Payer Appeal and examining the Case file by the Department; and since Zakat Payer failed To provide any statement that could be considered concerning the Primary Department conclusion; and since the Department was satisfied with the validity of the Primary Department Decision, and that the Grounds on which it was based were sufficient to uphold the same. Therefore, the Department decided by majority to dismiss Zakat Payer appeal and uphold the Primary Department Decision in this regard.

Based on the abovementioned Grounds and after deliberation, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer/ ..... Company, under C.R NO. (.....), TIN No. (.....), against the First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IR1) delivered in Case No. (Z-109-2018) regarding zakat assessment for the period (2006-2009 AD).

Second: On Merits:

Dismiss appeal filed by Zakat Payer and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh according to reasons and Grounds stated herein.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-261
Case No. Z-19110-2020

Keywords
Zakat - Accounts - Zakat re-assessment - Zakat Payer Acknowledgement of the Examination Report - Failure to Provide evidence to determine Profit Percentage - Confirm the Primary Department Decision

Abstract

Appellant (Zakat Payer) filed this Appeal to request cancellation of the Primary Department Decision No. (ISZR-2020-47). Zakat Payer Appeal was made in objection to the Primary Department endorsement of ZATCA action related to zakat re-assessment. It was established based on the Grounds mentioned in the Primary Department Decision that Zakat Payer acknowledged what was mentioned in the examination report and that the examination report claimed to be invalid in terms of procedural side by Zakat Payer had no effect on the substantive aspects of the assessment, whether in terms of assessment validity or total amounts included in the assessment. Therefore, the Department decides to dismiss Zakat Payer Appeal and uphold the Primary Department Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (17/28/577) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

To consider the appeal filed on .. /../... corresponding to .. /../... filed by ..., holder of National ID No. (...), in its capacity as owner of Appellant Institution, against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-47) issued in Case No. (Z-2249-2020) related to 1438 AH zakat assessment, filed by Appellant against ZATCA, in which the Primary Department decided as follows:

Accept the Case filed by plaintiff/(...), owner of (..... Institution), C.R. No. (...) in form, and reject the Case on merits.

Since this Decision was not accepted by Zakat Payer (..... Institution), Zakat Payer filed an appeal brief that included the following, in summary:

Zakat Payer challenged the appealed Decision taken by the Primary Department. Zakat Payer claimed that the examination was performed at 07:00 PM, outside office working hours, in violation of the provisions of the applicable Tax Law, which confirmed that examination of Zakat Payer books and records shall be carried out during working hours, and Article (59.2) of the Implementing Regulations stated that working hours shall mean Zakat Payer working hours. Also, re-assessment and examination cases mentioned in applicable Law do not apply to Zakat Payer in order to be obligated to submit declarations

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in accordance with law provisions. Moreover, the institution markets third-party services outside KSA, so the source of income was the result of marketing operations in favor of third parties outside KSA; accordingly, such operations shall be excluded from tax base stipulated in Article (6) of the applicable tax law. With regard to the assessment amended by ZATCA, it was found that such assessment was incorrect and arbitrary, as it ignored the percentage obtained by Zakat Payer and the burdens incurred thereby, and it also was also inconsistent with the submitted Documents. Therefore, Zakat Payer requested reversal of the Primary Department Decision being appealed based on the abovementioned Grounds.

The Department decided to open of pleadings, and ZATCA submitted a Reply, dated 01/03/1443 AH corresponding to 07/10/2021 AD, responding to Zakat Payer Appeal. In summary, ZATCA maintained in such Reply its previous statements presented before the Primary Department. ZATCA also requested rejection of any new requests by Zakat Payer in accordance with Article (186) of Law of Civil Procedures. Therefore, ZATCA maintained the validity and integrity of its action and requested rejection of Zakat Payer Appeal and confirmation of the Primary Department Decision based on the abovementioned Grounds.

On Sunday, 21/10/1443 AH corresponding to 22/05/2022 AD, the Department decided to hold an e-pleading session for 10 days. Such period expired without submitting any additional statements from any litigant to the Appeal.

On Sunday, 25/12/1443 AH corresponding to 24/07/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat Payer filed its Appeal to challenge the Primary Department indorsement of ZATCA action represented in zakat re-assessment. Zakat Payer claimed that the amended assessment was arbitrary, as it ignored the percentage obtained by Zakat Payer in exchange for marketing third party services and the burdens incurred thereby. While ZATCA argued that it maintain the validity and integrity of its action and requested rejection of Zakat Payer Appeal and confirmation of the Primary Department Decision. Upon reviewing Zakat Payer Appeal and examining papers and Documents contained in Case file by the Department, and based on the Facts mentioned in the Primary Department Decision, it was evident that Zakat Payer acknowledged what was mentioned in the examination report and that the examination report claimed to be invalid in terms of procedural side by Zakat Payer had no effect on the substantive aspects of the assessment, whether in terms of assessment validity or total amounts included in the assessment. Zakat Payer Appeal was centered around the income source in accordance with applicable tax law and its executive regulations and zakat payer is subject to the provisions of the Implementing Regulation for Zakat Collection which take into consideration the funds that entered Zakat Payer account and do not take into account the income source when calculating zakat base. Furthermore, Zakat Payer failed to provide any evidence that could be relied upon when determining the claimed profit rate. The Department was satisfied with the validity of the Primary Department Decision, and

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therefore decided to reject Zakat Payer Appeal and confirm the Primary Department Decision.

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

Decision

First: In form, accept the Appeal filed by Zakat Payer / .....Institution , CR. No. (…), TIN No (…), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISZR-2020-47) issued in Case No. (Z-2249-2020) on with zakat assessment for the year 1438 AH.

Second: On Merits:

Dismiss the Appeal filed by Zakat Payer and affirm the Decision taken by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the Grounds and merits mentioned herein.

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

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-262
Case No. ZI-21519-2020

Keywords
Zakat Zakat - Accounts - Remunerations and Incentives - Contributions - Technical fees, Board Remunerations, and Dividends - Investments

Abstract

Appellant (Zakat Payer/ZATCA) filed this appeal to claim cancellation of the Primary Department Decision No. (Z-94-2018) on zakat assessment for the period (1998 -2010 AD). With regard to both Zakat Payer Appeal and ZATCA Appeal in this Case, the Department recognized that zakat assessments for the period (1998 - 2000 AD) and the period (2004 - 2010 AD) were performed after expiration of the legally prescribed period for making amendments to Zakat Payer declarations, which is five years from the deadline of submitting declaration by Zakat Payer for each year. Given the fact that these principles were established for maintaining stability of transactions; therefore, the Department decided to dismiss ZATCA Appeal and accept Zakat Payer Appeal.

Instruments:

- Zakat Law promulgated by Royal Decree No. (17/28/577) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

To consider the appeal filed on .. /../... corresponding to .. ../../.... by (...), holder of National ID No. (...), in his capacity as Attorney of Appellant Company subject to POA No. (....), and the Appeal filed on ... /../... corresponding to .. against First Appellate Department for Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-50) issued in Case No. (Z-94-2018) with relation to zakat assessment for the period (1998-2010 AD), filed by Appellant against ZATCA, in which the Primary Department Decision ruled as follows:

First: In form:

In form, accept the Case filed by Plaintiff/ .....Company, C.R. No. (.....) as it was filed during the legally prescribed period.

Second: On merits:

1. Accept the objection filed by the Plaintiff (.....Co.), and cancel Defendant Decision with regard to Item (Contributions: Loans and Advances from Partners) aimed at covering losses of affiliated companies for the years (1998-2000-2001-2002 AD).
2. Confirm settlement of the dispute regarding Item (Corporate Expenses for the Period 1998 - 2003 AD), as defendant accepted Plaintiff (...Company) perspective regarding this item.

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3. Dismiss the objection filed by the Plaintiff (.....Co.), regarding Item (Remunerations and Incentives for the period 1998 - 2007 AD).
4. Confirm settlement of the dispute regarding Item (Car Loan Amortization for the period 1998 - 2000 AD), as Defendant accepted Plaintiff (..... Company) perspective regarding this item.
5. Dismiss the objection filed by the Plaintiff (.....Co.), regarding Item (Technical Fees, Board Remunerations, and Dividends for the period 1998 - 2010 AD).
6. Regarding Item (Investments for the period 1998 - 2010 AD): 1. Dismiss the objection filed by the Plaintiff (.....Co.), with regard to Item (Foreign Investment in ..... Company for the period 1998-2010 AD) 2. Accept the objection filed by the Plaintiff (.....Co.), and cancel Defendant Decision regarding Item (Foreign Investment in .....Company for the years 2009 AD and 2010 AD). 3. Dismiss the objection filed by the Plaintiff (.....Co.), regarding Item (Stock Portfolio for the Period 1998 - 2006 AD). 4. Accept objection filed by Plaintiff and cancel Defendant Decision regarding Item (Investments in Stock Portfolio for the Period 2007 - 2010 AD). 5. Dismiss the objection filed by the Plaintiff (.....Co.), with regard to Item (Attorney Fees). 6. Dismiss the objection filed by the Plaintiff (.....Co.), regarding Item (Government Bonds for the Period 1998 - 2006 AD). 7. Dismiss the objection filed by the Plaintiff (.....Co.), regarding Item (Supporting (Additional) Financing in Affiliated Companies).
7. Accept the objection filed by the Plaintiff (.....Co.), and cancel Defendant Decision regarding Item (Partner Payable Current Account for the years 2007 AD and 2008 AD).
8. Accept the objection filed by the Plaintiff (.....Co.), and cancel Defendant Decision on Item (Partner Receivable Current Account for the year 2009 AD).
9. Amend Defendant Decision regarding Item (Loan Balance for the year 2006 AD) through adding the loan amount that completed one year, which is estimated at (SAR 160,409,540).
10. Accept the objection filed by the Plaintiff (.....Co.), and cancel Defendant Decision regarding Item (Technical fees of ..... Company for the year 1999 AD).
11. Accept the objection filed by the Plaintiff (.....Co.), and cancel the Defendant Decision regarding Item (Fixed Assets and Depreciation Differences for the Period 2006 - 2009 AD).
12. Dismiss the objection filed by the Plaintiff (.....Co.), regarding Item (Other items that were not allowed to be deducted for the period 2004 - 2009 AD).
13. Confirm settlement of the dispute related to Item (Provision to Set Off the Recovered Investment Value for the years 2009 AD and 2010 AD), as Defendant accepted Plaintiff perspective regarding this item.
14. Dismiss the objection filed by the Plaintiff (.....Co.), regarding Item (Claim Against Provisions for the Period 2006 - 2010 AD).
15. Cancel Defendant Decision regarding Item (2004 Leaves), and dismiss Plaintiff objection regarding Item (Entitlement for Travel Tickets for the year 2004 AD).

Dissatisfied with that Decision, both parties filed a statement of appeal summarized as follows:

As for Zakat Payer's appeal against Primary Department's Decision, Zakat Payer's appeal involves: With regard to Item (Remunerations and Incentives for the Period 1998-2007 AD), Zakat Payer claimed that these expenses were incurred for performing normal and necessary business and were already paid and were not held in the company for twelve months. With regard to Item (Technical Fees, Board Remunerations, and Dividends for the Period 1998-2010 AD), Zakat Payer claimed that the technical fees obtained from (.....) Company, TIN No. (...), were subject to zakat and tax in the affiliated company, and to

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the ends of justice, this income should not have been subject to zakat in the same year in which (.....) Company has paid due zakat. As for Item (Board Remunerations), Zakat Payer claimed that it requested to deduct the same to avoid double payment of Zakat, as these fees were already subject to Zakat in the affiliated companies. Concerning Item (Dividends), it is worth noting that imposing zakat on this item has resulted in double payment of zakat because it was subject to zakat once on the current year profits and then on the profits of investee companies. As for Item (Investments), Zakat Payer requested acceptance of deducting investments in the stock portfolio for the entire period (2005-2010 AD), given that the management intention was to hold long-term investments for the purpose of increasing capital rather than realizing short-term profits, and also government bonds shall be deducted from zakat base since they are funds that were invested outside the company and were not held therein for 12 months. In reference to Item (Other items not allowed to be deducted for the period 2004-2009 AD—expenses related to donations and general administrative expenses—hospitality expenses), Zakat Payer claimed that such expenses shall be deducted as they represent regular and necessary business expenses. Regarding Item (Provisions for the Period 2004-2009 AD), Zakat Payer claimed that it was unaware of ZATCA Grounds for refusing or demanding provision differences. With regard to Item (Entitlement for Travel Tickets for the year 2004 AD), Zakat Payer argued that travel tickets by nature are given as entitlements, not provisions, and also that due costs were not held in the company for 12 months. Therefore, Zakat Payer requested reversal of the Primary Department Decision on the appealed items based on the abovementioned Grounds.

Since this Decision was not accepted by ZATCA, ZATCA filed an appeal against the contested Decision by virtue of an appeal brief that included the following:

With regard to Item (Contributions: Loans and Advances from Partners, Aimed at Covering Losses of Affiliated Companies for the Years 1998, 2000, 2001, and 2002 AD), ZATCA clarified that loans and advances provided to affiliated companies for the purpose of covering losses as argued by Zakat Payer were not subject to zakat in the affiliated companies in the coverage year and were also added to company financial statements. Therefore, ZATCA did not accept the deduction of the same from the zakat base, as they were non-deductible expenses. Moreover, conversion of such item by Zakat Payer to loans and contributions provided to affiliated companies did not change the item nature, which was confirmed by the Primary Department (as an expense that should be recognized in the income statement). In case of proving Zakat Payer argument that the item represented loans and advances provided to affiliated companies, then only the percentage of contribution to the affiliated company capital should have been deducted from zakat base. Regarding Item (Investments), ZATCA clarified that the Committee accepted the Documents submitted by Zakat Payer even though the same Documents were previously requested during the examination and objection stages, but Zakat Payer failed to submit the same. As for Item (Investments in Stock Portfolio), ZATCA indicated that the dispute was not only about supporting Documents, as ZATCA did not accept to deduct those investments because they were classified in the financial statements as “available-for-sale traded investments," which prove that such investments were traded and their purpose was speculation. As for Item (Partner Payable Current Account for the Years 2007 AD and 2008 AD), Item (Partner Receivable Current Account for the Year 2009), Item (2006 Loans), and Item (Technical Fees for ..... Company for the year 1999 AD), ZATCA stated that the Primary Department accepted the Documents submitted by Zakat Payer, even though the same Documents were requested during inspection and objection stages, but Zakat Payer failed to submit the same. As for Item (Fixed Assets and Depreciation Differences for the Period 2006-2009AD), ZATCA explained that it applied the Circular No. (9/2574) dated 14/05/1426 AH, which stated that the procedural provisions and

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accounting rules included in applicable tax laws shall be applied to Zakat Payers for the purpose of standardizing applied procedures, including calculation of depreciation included in Article (17) of Income Tax Law. Accordingly, the depreciation schedule was prepared, the depreciation differences were amended for determining the net book profit, and the fixed assets were deducted from the zakat base. With regard to Item (2014 Leaves), ZATCA made it clear that such item was treated as provisions, as the leave entitlement component throughout the year was added to profits, and leave used balances were also deducted. So, the Item (Payable Leave Salaries) was amended in the financial statements, as they are payable to employees for their annual leaves. Therefore, ZATCA maintained the validity and integrity of its action and requested reversal of the Primary Department Decision in terms of appealed items based on the abovementioned Grounds.

On Thursday, 17/11/1443 AH corresponding to 16/06/2022 AD, the Department decided to hold an online pleading session for 10 days, in which ZATCA submitted a Reply. In summary, ZATCA confirmed in its Reply the validity and integrity of its action. ZATCA also noted that Zakat Payer claims did not differ from its previous claims already considered and responded to by ZATCA. With regard to Item (Contributions Aimed at Covering Losses of Affiliated Companies), ZATCA appealed that item and requested the Department to refer to its Appeal Brief to avoid repetition. Concerning Item (Remunerations and Incentives), ZATCA added remunerations and incentives to the Zakat base in accordance with Article (5.1) and Article (6.2) of Implementing Regulation for Zakat Collection issued in 1438 AH. As for Item (Technical Fees, Board Remunerations, and Dividends), ZATCA found that these expenses are not deductible by law in accordance with ZATCA Letter No. (5097/10) dated 1423 AH and Article (20.3) of Implementing Regulation for Zakat Collection. Therefore, Zakat Payer objection was rejected by the Department. Regarding Item (Investments), ZATCA claimed that it adhered to Article (4.II.4.B) of Implementing Regulation for Zakat Collection issued in 1438 AH, and with regard to stock portfolio, ZATCA has already appealed this item and requested the Department to refer to its Appeal Brief to avoid repetition. With respect to Item (Government Bonds), they were treated as loans, not investments, in accordance with Article (4.II.4.C) of Implementing Regulation for Zakat Collection. In connection with Item (Loans and Advances provided to Affiliated Companies), they were treated as loans, not investments, based on several Fatwas, including Fatwa No. (18497) of 1408 AH and Fatwa No. (2/3077) of 1426 AH. Regarding Item (Attorney Fees), ZATCA concluded that these expenses have nothing to do with capital expenses and cannot be treated as fixed assets when deducted from zakat base. Additionally, ZATCA did not raise any objection concerning recognition of annual expenses of that nature in the financial statements in accordance with the Matching Principle, which requires that expenses should be recorded in the same accounting period as the revenue they helped generate. With regard to Item (Partner Current Accounts), Item (Partner Loans), Item (Technical Fees Related to..... Company), and Item (Fixed Assets and Depreciation Differences), ZATC appealed against such items pursuant to its Appeal Brief submitted to the Department to avoid repetition, to which it referred for avoidance of repetition. As for Item (Other items that were not allowed to be deducted, including donations, hospitality expenses, general administrative expenses, and other expenses and losses related to service management), ZATCA added this item to the zakat base pursuant to Article (5.1) and Article (6.2) of Implementing Regulation for Zakat Collection issued in 1438 AH. As for Item (Losses Resulting from Investment Sales), ZATCA found that this item centered around the sale and purchase of shares traded in the local market, and since ZATCA rejected securities investments due to their tradable and speculative nature; and therefore considered the same as traded investments (trade offers), on which zakat shall be imposed. As for Item (Claims Against Provisions), ZATCA added the balance to the adjusted profit in

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accordance with Article (4.9) and Article (6.6) of Implementing Regulation for Zakat Collection. With regard to Item (Travel Tickets and Entitled Leaves), ZATCA argued that it appealed this item and requested the Department to refer to its Appeal Brief to avoid repetition. Moreover, ZATCA requested rejection of any new Documents that were not submitted earlier by Zakat Payer during inspection and objection stages and also requested the Department not to accept any new Documents pursuant to Article (186) of Law of Civil Procedure. Therefore, ZATCA maintained the validity and integrity of its action and requested reversal of Zakat Payer Appeal and confirmation of the Primary Department Decision based on the abovementioned Grounds. Furthermore, Zakat Payer submitted a Reply, in which it requested confirmation of the Primary Department Decision and rejection of ZATCA Appeal with relation to appealed items.

On Sunday, 25/12/1443 AH corresponding to 24/07/2022 AD, after reviewing appeal memoranda and replies thereto and examining papers and Documents contained in Case files, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

When reviewing Case Documents and Appeal Brief submitted by the Appellant Company and ZATCA, the Department was satisfied that conditions of appeal hearing have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. Therefore, both appeal requests were accepted in form because they were submitted by persons with legal capacity and within the legally prescribed period.

On merits, with regard to both appeal requests filed by both litigants with regard to this Case, the Department found that ZATCA assessments for the period (1998-2000 AD) and the period (2004–2010 AD) were performed after expiration of the legally prescribed period for amending Zakat Payer declaration, which is five years from the deadline for submitting Zakat Payer declaration for each year. It is worth noting that these rules are established to maintain transaction stability and prevent instability of Zakat Payer positions in case of absence of a timeframe that ensures maintaining their financial positions not jeopardized. Since this matter does not result in releasing Zakat Payer from its legal obligation if it is already concerned with fulfilling such obligation, but rather represents a procedural issue with relation to ZATCA right to reopen assessments after the expiry of the period prescribed by law; therefore, the Department concluded that ZATCA Decision to make such amendments was invalid and consequently accepted the zakat calculation as submitted in Zakat Payer declarations. Therefore, the Department decided to dismiss both ZATCA Appeal and Zakat Payer Appeal regarding the items related to these years and quash the Primary Department Decision reached in this regard.

With regard to Item (Contributions: Loans and Advances From Partners aimed at covering losses of affiliated companies for the years 2001 AD and 2002 AD), ZATCA filed its appeal to challenge acceptance of Zakat Payer objection regarding this item by the Primary Department. ZATCA argued that losses coverage was not subject to Zakat in the affiliated companies during the year of coverage and was recognized in the company accounts; hence, it was not deducted as it was considered a non-deductible expense. Zakat Payer requested rejection of ZATCA Appeal and confirmation of the Primary Department Decision. After reviewing ZATCA Appeal and examining Case file, the Department found that Zakat Payer contribution aimed at covering losses of affiliated companies was considered the same type of investment that should be deducted from Zakat base of Zakat Payer, whether such coverage was required by provisions of Companies Law or was an optional. Based on financial statements, the Department established that Zakat Payer covered losses of affiliated companies. Therefore, the Department decided to dismiss ZATCA Appeal and uphold the Primary Department Decision reached in this regard.

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As for Item (Remunerations and Incentives for the Period 2001-2003 AD), Zakat Payer filed its Appeal to challenge the Primary Department Decision confirming ZATCA action represented in non-deduction of this Item from zakat base. Zakat Payer claimed that these expenses shall have been deducted as they were supported by Documents and necessary for the income-generating activity. On the other hand, ZATCA maintained the validity and integrity of its action and requested dismissal of Zakat Payer Appeal and confirmation of the Primary Department Decision. After reviewing Zakat Payer Appeal and examining Case file, it was established that all regular and necessary expenses required for performing activity—whether paid or due—may be deducted if they are actual expenses supported by Documents or any other evidence that enables ZATCA to verify the same. It is worth noting that zakat shall be imposed on funds kept in the possession of Zakat Payer for a complete year. However, it was proven that such funds were released by Zakat Payer and paid to fulfill employee remunerations and incentives, and this matter did not constitute a subject of any dispute. ZATCA arguments regarding the legality of these remunerations and the necessity for adopting procedures stipulated by Labor Law when dealing therewith are irrelevant to calculating zakat transaction or including the related funds in zakat base of Zakat Payer or not, since such regulatory procedures are aimed at achieving another purpose, which is protecting employee rights in establishments. As such, the Department concluded that the entire amount is deductible when calculating zakat, in contrast to the Primary Department Decision. Therefore, the Department decided to accept Zakat Payer Appeal and overturn the Primary Department Decision reached in this regard.

As for Item (Technical Fees, Board Remunerations, and Dividends for the Period 2001 - 2003 AD), Zakat Payer filed its Appeal to challenge the Primary Department Decision confirming ZATCA action represented in non-deduction of such item from zakat base, Zakat Payer claimed that this item should have been deducted to avoid double payment of zakat, which is forbidden by Islamic Sharia. On the other hand, ZATCA argued that it maintained the validity and integrity of its action and requested dismissal of Zakat Payer Appeal and confirmation of the Primary Department Decision reached in this regard. After reviewing Zakat Payer Appeal and examining Case file, the Department found that ZATCA refused to deduct the disputed amounts based on the Grounds that Zakat Payer failed to submit copies of the amended zakat assessments of affiliated companies for the years being disputed. Whereas zakat assessments amended pursuant to appellate Decisions are considered Decisions issued by ZATCA, and ZATCA has full access thereto, this shall not constitute a justification for ZATCA to reject Zakat Payer declaration based on the allegation that Zakat Payer failed to submit such assessments, especially given the fact that such assessments were related to a legal person that is separate from Zakat Payer, and since the Department request for Zakat Payer to submit the supporting Documents for the disputed amounts is unreasonable, considering that Zakat Payer failure to provide supporting Documents for the disputed amounts was not the basis for ZATCA Decision. As a result, the Department decided to accept Zakat Payer Appeal and overturn the Primary Department Decision reached in this regard.

With regard to Item (Investments for the Period 2001 - 2003 AD), Zakat Payer filed its Appeal to challenge the Primary Department Decision confirming ZATCA action represented in non-deduction of this item from zakat base. Zakat Payer claimed that this item should have been deducted since these investments were performed for the purpose of acquisition and did not complete a year. While ZATCA maintained the validity and integrity of its action and requested dismissal of Zakat Payer Appeal and confirmation of the Primary Department Decision. After reviewing Zakat Payer Appeal and examining Case file, the Department found that the appealed investments related to the disputed years, which the Department accepted to consider, consisted of investments in (...)

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Company and investments in government bonds. Moreover, Zakat Payer failed to submit audited financial statements of the foreign company endorsed by a chartered accountant in the country of investment. Therefore, the Department decided to reject Zakat Payer Appeal with regard to this investment. With regard to Item (Investment in Government Bonds), having reviewed Zakat Payer Appeal and examined Case File, the Department found that the bonds are basically debt instruments that are subject to the same rules applicable to all other types of debts when it comes to zakat assessment. This excludes the provisions of the Ministerial Resolution No. (32/925), dated 25/05/1409 AH, which provides that Zakat Payer shall be exempted from paying zakat to ZATCA on the bonds held in possession, since this resolution is related to the procedural aspect represented in collecting zakat by ZATCA and has nothing to do with releasing Zakat Payer from its zakat obligation. Accordingly, the Department decided to accept Zakat Payer Appeal regarding ZATCA ineligibility to collect zakat on those bonds for the disputed years.
For these Grounds and after deliberation, the Department unanimously decided to:

Decision

First: In form, accept the Appeal filed by Zakat Payer/ .....Company, C.R. No. ....., TIN No.....,and the Appeal filed by ZATCA against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-50), issued in Case No. (Z-94-2018) with relation to zakat assessment for the period (1998 - 2010 AD).
Second: On Merits:

1. Dismiss both ZATCA Appeal and Zakat Payer Appeal with regard to all appealed items for the period (1998 - 2000 AD) and the period (2004 - 2010 AD), overturn the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Jeddah in this regard, and confirm zakat calculation based on Zakat Payer declarations for these years, in accordance with Grounds and merits mentioned herein.
2. Dismiss ZATCA Appeal with regard to Item (Loans and Advances from Partners) aimed at covering losses of affiliated companies for the years 2001 AD and 2002 AD, and uphold the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with Grounds and merits mentioned herein.
3. Accept Zakat Payer Appeal regarding Item (Remunerations and Incentives for the Period 2001 - 2003 AD) and overturn the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with Grounds and merits mentioned herein.
4. Accept Zakat Payer Appeal regarding Item (Technical Fees, Board Remunerations and Dividends for the Period 2001 - 2003 AD) and overturn the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Jedda, in accordance with Grounds and merits mentioned herein.
5. As for Item (Investments for the Period 2001 - 2003 AD):
   A. Dismiss Zakat Payer Appeal regarding foreign investment for the period (2001 - 2003 AD), and uphold the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with Grounds and merits mentioned herein.
   B. Accept Zakat Payer Appeal regarding Investment in Government Bonds for the period (2001 - 2003 AD), and overturn the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with Grounds and merits mentioned herein.

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

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Decision No. IR-2022-263
Case No. I-26747-2020

Keywords

Zakat - Accounts - Deduction of Long-Term Investments - Credit Interest - It is established that all assets are possessed for the purpose of acquisition not trading - Failure to prove that Plaintiff paid its obligations before completing one year of acquisition

Abstract

Appellant (Zakat Payer) filed its appeal to claim cancellation of the Primary Department Decision No. (IFR-2020-52) on 2014 zakat assessment. With regard to Item (Deduction of Long-Term Investments From Zakat Base), it is established that all assets are possessed for the purpose of acquisition, not trading, unless they are intended for both profit and trading, and it was not clear whether the disputed land was offered for sale in the year of dispute. As for Item (Adding Credit Interest to Zakat Base), this item constituted a part of zakat base as an obligation. Since interests are usually deducted when calculating zakat profits, failure to add debts resulting from unpaid obligations shall be considered double deduction of zakat from zakat base. Therefore, the Department accepts the appeal and overturns Primary Department's Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (17/28/577) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

To consider the appeal filed on .. /..../..., corresponding to .. /../...., by (...), holder of National ID No. (...), in his capacity as the legal representative of Appellant Company, subject to Company AOA, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-52) issued in Case No. (Z-8376-2019) in connection with 2014 zakat assessment, filed by Appellant against ZATCA, in which the Primary Department Decision ruled as follows:

First: Dismiss objection submitted by Plaintiff/(...) Company TIN..... against Defendant/ZATCA Decision with relation to Item (Long-Term Investments), subject matter of the Case.

Second: Dismiss objection submitted by Plaintiff/(...) Company TIN..... against Defendant/ZATCA Decision on Item (Credit Interest), the subject matter of the Case.

Third: Confirm resolution of the dispute involving Plaintiff/ ..... Company TIN..... and Defendant/ZATCA with relation to other non-deductible expenses, subject matter of the Case.

Fourth: Confirm resolution of the dispute involving Plaintiff/ ..... Company TIN..... and Defendant/ZATCA with relation to legal zakat provision, subject matter of the Case.

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Since this Decision was not accepted by Zakat Payer (.... company), he submitted a statement of appeal, which contained the following:

Zakat Payer challenged the appealed Primary Department Decision. Concerning Item (Deduction of Long-Term Investments From Zakat Base for the Year 2014 AD), Zakat Payer claimed that such investment value represented the cost of (.....) Project established in Plot No. (2), (37/A), and (37/B) of Scheme No. (1611/C) located in (.....) neighborhood. When purchasing such plot, it was planned to establish a project for the purpose of renting units and benefiting from resulting returns in the long term. The project consisted of (54) villas, (1) club, and (1) concert hall. Due to changes affecting the real estate market in general and the residential sector in particular, the progress of such project was interrupted, and the company was unable to complete the project due to lack of liquidity provided by partners and failure to obtain the additional financing required to complete the project. Since previous financing was obtained using project land as a guarantee (noting that such land was mortgaged) and the due obligations were not paid, the Bank had to dispose of the land. Therefore, the Company had to find alternatives to avoid losses through selling the project at a public auction or any other means deemed fit by the Bank to fulfill company obligations. In 2016 AD, a buyer (..... Company) offered to purchase the project and fulfill bank obligations and project contractor obligations, and such sale was recognized in the company financial statements with the amount of (SAR 131,700.600), paid in full. As of the project beginning in 2013, the company intended to possess, invest in, and develop that land, construct residential units therein, and rent the same. Also, no part of the project was sold during 2014 AD and 2015 AD, and the land area was decreased in 2014 AD as a result of depriving an area of (676 square meters) for the benefit of Royal Commission for Riyadh City, not as a result of sale. With reference to Item (Adding Credit Interest to Zakat Base), such interests were not intended for financing any investment, as they were used to purchase the land of (.....) Project, with the amount of (SAR 60.000.000), which represented the full loan amount free of due interest as evidenced in 2013 financial statements. Therefore, these interests were not used to finance the investment made to purchase the (.....) land purchase project. Also, such interests were considered expenses and burdens incurred by the Company, rather than funds that could be benefited from or disposed of. Therefore, Zakat Payer requested annulment of the Primary Department Decision based on the abovementioned grounds.

The Department decided to open pleadings, and ZATCA presented a Reply dated 09/12/1442 AH, corresponding to 18/07/2021 AD, responding to Zakat Payer Appeal. In its Reply, ZATCA confirmed its perspective presented before the Primary Department. With regard to Item (Long-Term Investments), ZATCA maintained its perspective and claimed that its action was performed in accordance with provisions of Article (4.4.A.C) of Implementing Regulation for Zakat Collection. As for Item (Credit Interest), ZATCA maintained its perspective and claimed that its action was performed in accordance with provisions of Article (4.5) and Article (20.3) of Implementing Regulation for Zakat Collection. Additionally, the statements made by Zakat Payer did not differ from its previous statements, which ZATCA responded to at the time. Accordingly, ZATCA requested the Department to reject any further Documents that were not previously submitted by Zakat Payer during examination and objection stages. Therefore, ZATCA maintained the validity and integrity of its action and requested reversal of Zakat Payer Appeal and confirmation of the Primary Department Decision based on the abovementioned Grounds.

On Sunday, 21/10/1443 AH corresponding to 22/05/2022 AD, the Department decided to hold an e-pleading session for 10 days. Such period passed without submitting any additional statements by any litigant to the Appeal.

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On Sunday, 25/12/1443 AH corresponding to 24/07/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat Payer filed its Appeal with regard to Item (Deduction of Long-Term Investments from 2014 Zakat Base) to challenge the Primary Department Decision that confirmed ZATCA action, which resulted in non-deduction of this item from zakat base. Zakat Payer claimed that possession in such case was for the purpose of acquisition, and no disposal was performed during the disputed year, subject matter of the Case. On the other hand, ZATCA maintained the validity and integrity of its action and requested rejection of Zakat Payer Appeal and confirmation of the Primary Department Decision. After reviewing Zakat Payer Appeal and examining Documents contained in Case file, since it is established that all assets are possessed for the purpose of acquisition, unless intended for profit or trading, it was evidenced that the disputed land was not offered for sale in the disputed year. Zakat Payer also proved that the land area was decreased in 2014 as a result of a decrease in its value, rather than any sale transaction with relation to the same. Therefore, the Department decided to accept Zakat Payer Appeal and overturn the Primary Department Decision reached in this regard.

With regard to Item (Adding Credit Interest to Zakat Base), Zakat Payer filed its Appeal to challenge the Primary Department Decision that confirmed ZATCA action, which resulted in non-deduction of this item from zakat base. Zakat Payer claimed that such interests were not used to finance any investment during the year. While ZATCA maintained the validity and integrity of its action and requested rejection of Zakat Payer Appeal and confirmation of the Primary Department Decision reached in this regard. After reviewing Zakat Payer Appeal and examining Documents contained in Case file, since the disputed item constituted a part of zakat base as an obligation item, and since interests are deducted when calculating zakat profit; therefore, failure to add debts resulting from unpaid obligations shall be considered double deduction of zakat from zakat base. Since Zakat Payer failed to prove payment of such obligations before completing one year; accordingly, the Department decided to reject Zakat Payer Appeal and confirm the Primary Department Decision reached in this regard.

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

Decision

First: In form, accept Appeal filed by Zakat Payer/ Company …, CR. NO. (…), TIN No (…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (IFR-2020-52) issued in Case No. (Z-8376-2019) in connection with 2014 tax assessment.

Second: On Merits:

1. Accept Zakat Payer Appeal with regard to Item (Deduction of Long-Term Investments for the Year 2014 AD) and overturn the Decision rendered by First Department for Determination of Income Tax Violations and Disputes in Riyadh according to Grounds and merits mentioned herein.

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2. **Accept Zakat Payer Appeal with regard to Item (Adding Credit Interest to Zakat Base), and overturn the Decision reached by First Department for Determination of Income Tax Violations and Disputes in Riyadh according to Grounds and merits mentioned herein.**

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

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Keywords
Zakat - Accounts - Accounts Payable - Advance Payments Provided by Customers - Accounts Payable - Confirm the Primary Department Decision

Abstract

Appellant (Zakat Payer/ZATCA) filed its apple to request cancellation of the Primary Department Decision No. (IZD-2020-167) on 2016 zakat assessment. With regard to Item (Accounts Payable), Zakat Payer filed its appeal to challenge the Primary Department Decision, which confirmed ZATCA action represented in imposing zakat on all item amount. Zakat Payer claimed that it is invalid to recognize all zakat base obligatory components without taking into consideration payable and receivable accounts and it was evidenced that the amount of (SAR 662,865) was held for a complete year when reviewing account activity. With regard to Item (Advance Payments Provided by Customers), Zakat Payer filed its appeal to challenge ZATCA action represented in imposing zakat on the full amount, as Zakat Payer claimed that such amount was not possessed for a complete year. While ZATCA made its Appeal to challenge confirmation of Zakat Payer objection by the Primary Department regarding this item. ZATCA argued that it requested addition of items that completed one year in zakat base, and Zakat Payer was requested to present item related account activity, but it failed to do the same. Since the dispute was centered around documentation matters in form, and since the Documents provided by Zakat Payer proved that the Advance Payments Item did not complete a whole year; therefore, the Department decided to dismiss Zakat Payer Appeal regarding Item (Accounts Payable), disregard Zakat Payer Appeal with relation to Item (Advance Payments Provided by Customers), and dismiss ZATCA Appeal with regard to Item (Advance Payments Provided by Customers).

Documents:

- Article (23) of Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 21/04/1441 AH.

Facts

The Department convened a session to consider the Appeal filed on ../../.., corresponding to ../../.., by (...), holder of National ID No. (...), in his capacity as the legal representative of Appellant Company, subject to Company AOA, and the Appeal filed by ZATCA on 12/03/1442 AH, corresponding to 28/10/2020 AD, against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-167) issued in Case No. (Z-8171-2019) with relation to 2016 zakat assessment, filed by Appellant against ZATCA, in which the Primary Department Decision ruled as follows:
In from: Accept the Case filed by Plaintiff\ .... Company, C.R. No. (....), in form.
On Merits:

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1. Reject Plaintiff objection regarding Item (2016 Accounts Payable).
2. Accept Plaintiff objection with regard to Item (Advance Payments Provided by Customers for the Year 2016 AD).

Dissatisfied with that Decision, both parties filed a statement of appeal summarized as follows:

As for Zakat Payer's appeal against Primary Department's Decision, Zakat Payer's appeal involves: With regard to Item (2016 Accounts Payable), Zakat Payer claimed that the balance of (SAR 662,865) was added and zakat obligatory items were calculated without taking into consideration payable and receivable accounts movements, while the balance not completing one year was estimated at (SAR 155,441). AS for Item (Advance Payments Provided by Customers), Zakat Payer claimed that such item did not complete a year and was paid during the relevant fiscal year. Therefore, Zakat Payer requested reversal of the Primary Department Decision with regard to the appealed items based on the abovementioned Grounds.

ZATCA also dissatisfied with the Decision; therefore, ZATCA filed its appeal against the contested Decision under a statement of appeal summarized as follows:

With regard to Item (Advance Payments Provided by Customers for the Year 2016 AD), ZATCA clarified that it requested that items completing one year to be added to zakat base, and Zakat Payer was requested to provide the account activity related to such item, but it failed to do so. ZATCA performed its action pursuant to Fatwa No. (22665) of 1424 AD and Fatwa No. (2/3077) of 1426 AH. Also, the Decision taken by the Primary Department did not make clear the Documents reviewed in this regard and the basis upon which it determined that one year had not passed, and also Zakat Payer was not requested to clarify dates of account statements proving the validity of its claims and whether they pertained to advance payments or other payments. Moreover, ZATCA requested rejection of any further Documents that were not presented previously during examination and objection stages. Therefore, ZATCA maintained the validity and integrity of its action and requested confirmation of its action and reversal of the appealed Primary Department Decision based on the abovementioned Grounds.

On Sunday, 29/06/1443 AH corresponding to 01/02/2022 AD, the Department decided to hold an e-pleading session for (10) days, in which ZATCA provided a Reply responding to Zakat Payer Appeal. In summary, ZATCA confirmed in its Reply that it maintained the validity and integrity of its action. With regard to Item (2016 Accounts Payable), ZATCA made it clear that it added the balance accounts payable based on financial statements after comparing the opening balance and closing balance of the period, whichever was less, considering that a year had passed over the lower balance in accordance with provisions of Article (4.5) and Article (20.3) of Implementing Regulation for Zakat Collection, Fatwa No. (2/3077) of 1426 AH, and Fatwa No. (2/2384) of 1406 AH. With reference to Item (Advance Payments Provided by Customers for the Year 2016 AD), ZATCA clarified that it maintained the validity and integrity of its action based on the Facts contained in its Appeal Brief provided to the Department. ZATCA also requested rejection of any further Documents that were not previously provided during examination and objection stages pursuant to Article (186) of Law of Civil Procedure. Therefore, ZATCA maintained the validity and integrity of its action and requested rejection of Zakat Payer Appeal and confirmation of the Primary Department Decision with regard to appealed items based on the abovementioned Grounds.

On Wednesday, 06/01/1444 AH corresponding to 03/08/2022 AD, upon reviewing appeal notes and replies thereto, examining all papers and Documents contained in Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision on its merits. Accordingly, the Department decided to close pleadings and set a date for adjudication.

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Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer and ZATCA, the Department found that the conditions for considering appeal were met in form as stipulated by the relevant laws, regulations and Decisions. Therefore, the two appeals are accepted in form due to the fact of being filed by parties having capacities and within the statutory period.

On merits, Zakat Payer filed its Appeal with regard to Item (2016 Accounts Payable) to challenge the Primary Department Decision that confirmed ZATCA action represented in imposing zakat on the whole amount. Zakat Payer claimed that it is invalid to recognize all zakat base obligatory components without taking into consideration payable and receivable accounts . On the other hand, ZATCA maintained the validity and integrity of its action and requested rejection of Zakat Payer Appeal and confirmation of the Primary Department Decision. Upon careful consideration of dispute subject matter, examining all papers and Documents contained in case file, and following up account activity, it was evidenced that a year had passed over the amount of (SAR 662.865). The Department was also satisfied with the validity of the appealed Decision reached by the Primary Department, and that the Grounds adopted for issuing such Decision were sufficient to support the same. Therefore, the Department decided to reject Zakat Payer Appeal and uphold the Decision taken by the Primary Department in this regard.

With regard to Item (Advance Payments Provided by Customers), Zakat Payer filed its appeal to challenge ZATCA action represented in imposing zakat on the item amount. Zakat Payer claimed that a year had not passed over such amount, while ZATCA maintained the validity and integrity of its action and requested rejection of Zakat Payer Appeal and confirmation of the Primary Department Decision. Upon examining Case file and reviewing Documents contained therein, and based on the Primary Department Decision, which accepted Zakat Payer objection, the Department decided to disregard the Appeal filed in this regard.

With reference to Item (Advance Payments Provided by Customers for the Year 2016 AD), ZATCA filed its Appeal to challenge the Primary Department Decision on this Item. ZATCA claimed that it requested that items completing one year to be added to zakat base and that Zakat Payer was requested to provide account activity, but it failed to do so. Upon careful consideration of dispute subject matter and examining all papers and Documents contained in Case file, it became clear that this dispute was centered around documentation matters in form, and the Documents provided by Zakat Payer proved that the advance payments did not complete a year through comparing the period opening balance and paid amounts throughout the year. Therefore, the Department was satisfied with the validity of the conclusion reached by the Primary Department. This did not contradict with the arguments presented by ZATCA regarding invalidity of accepting any Documents that were not previously submitted to ZATCA at the time of assessment in accordance with Article (23) of Tax Dispute and Violation Committee Procedures, which gives Zakat Payer the right to use all possible supporting means. Since ZATCA did not raise any objection concerning the validity of the Documents provided by Zakat Payer, the Department decided to dismiss ZATCA Appeal and uphold the Primary Department Decision in this regard.

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

Decision

First: In form, accept the appeal filed by Zakat Payer/ ..... Company, C.R No. (.....), TIN No. (.....), against First Department for Determination of Income Tax Violations and

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Disputes in Dammam Decision No. (IZD-2020-167) issued in Case No. (Z-8171-2019) with regard to 2016 zakat assessment.

Second: On Merits:

1. Dismiss Zakat Payer Appeal regarding Item (2016 Accounts Payable) and uphold the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Dammam in accordance with Grounds and merits mentioned herein.
2. Disregard Zakat Payer Appeal with regard to Item (Advance Payments Provided by Customers) in accordance with Grounds and merits mentioned herein.
3. Dismiss ZATCA Appeal with regard to Item Advance Payments Provided by Customers for the Year 2016 AD), and uphold the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Dammam in accordance with Grounds and merits mentioned herein.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-280
Case No. Z-27696-2020

Keywords
Zakat - Accounts - Expiration of the Period Prescribed by Law for Making Amendments - Overturn the Decision Taken by the Primary Department

Abstract

Appellant (Zakat Payer/ ZATCA) challenged the Primary Department Decision No. (IZJ-2020-107) with regard to zakat assessment for the period (2001-2008 AD). Upon reviewing both appeal requests presented by Zakat Payer and ZATCA, the Department found that ZATCA assessment was performed after expiration of legally prescribed period for making amendments to Zakat Payer declaration, which is five years from the deadline for submitting Zakat Payer declaration for each year. It is worth noting that these rules are established to ensure the stability of transactions and to avoid leaving zakat payers in a state of uncertainty without a defined period that would ensure their financial positions are not destabilized. Therefore, the Department decided to accept the appeal and overturn the Primary Department Decision.

- Zakat Law promulgated by Royal Decree No. (17/28/577) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened a session to consider the Appeal filed on ../../...., corresponding to ../../.... by (...), holder of National ID No. (...), in his capacity as attorney of appellant company, subject to POA No. (....), and the Appeal filed on ../../...., corresponding to ../../...., against First Department for Determination of Income Tax Violations and Disputes in Jeddah, No. (IZJ-2020-107) issued in Case No. (Z-85-2018) with regard to Zakat assessment for the period (2001-2008 AD) filed by Appellant against ZATCA, in which the Primary Department decided as follows:

First: In form:

In form, accept the Case filed by Plaintiff/ .....Company, C.R. No. (.....) In form.

Second: On merits:

1. Reject the objection of Plaintiff\ .... Company with regard to Item (External Procurement Differences for the period 2001-2008 AD).
2. Reject the objection of Plaintiff\ .... Company with regard to Item (Bonuses, Commissions, and Gifts for the period 2001-2008 AD, and the years 2007 AD and 2008 AD.)
3. Reject the objection of Plaintiff\ .... Company with regard to Item (Expenses Charged by Relevant Parties for the Year 2006 AD).

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4. Reject the objection of Plaintiff\ .... Company with regard to Item (Labor not Sponsored by Plaintiff for the period 2001-2004 AD).
5. Reject the objection of Plaintiff\ .... Company with regard to Item (Withdrawals by Partners / Current Receivable Account for the period 2002-2004 AD).
6. Reject the objection of Plaintiff\ .... Company with regard to Item (Entitled Travel Tickets for the period 2001-2004 AD, and the years 2006 AD and 2008 AD), and confirm settlement of dispute over Item (2007 Entitled Travel Tickets).
7. Amend Defendant Decision on Item (2002 Accumulated Losses).
8. Reject the objection of Plaintiff\ .... Company with regard to Item (Spare Parts for the Year 2004 AD).
9. Accept Plaintiff objection and cancel Defendant Decision with regard to Item (Capital Increase for the Year 2003 AD).
10. Reject the objection of Plaintiff\ .... Company with regard to Item (Credit Balances for the Period 2001-2008 AD).
11. Reject the objection of Plaintiff\ .... Company with regard to Item (Potential Loss Provision /Finishing Reserve for the Year 2003 AD), and confirm settlement of dispute over Item (Legal Zakat Provision for the Year 2007 AD).
12. Accept Plaintiff objection and cancel Defendant Decision with regard to Item (Investments for the Period 2001- 2008 AD).
13. Reject the objection of Plaintiff\ .... Company with regard to Item (Withholding Tax Differences and Fines for the years 2006 AD and 2008 AD).

Dissatisfied with that Decision, both parties filed a statement of appeal summarized as follows:

Zakat Payer filed its appeal to challenge the Primary Department Decision and requested abolishment of the Primary Department Decision rejecting its objection over Items, subject matter of the Case, in accordance with Grounds mentioned in its Appeal Brief. Zakat Payer also confirmed that the statute of limitations was discussed before the Primary Department, and it turned out that Zakat Payer has submitted his declarations on the legally prescribed dates, and no inquiries were made by ZATCA in this regard until issuance of its assessment on 13/10/2016 AD. Accordingly, it turned out that ZATCA performed its assessment after five years of declaration date without any reasonable justification. Therefore, Zakat Payer requested abolishment of the Primary Department Decision with regard to appealed items based on the abovementioned Grounds.

Since this Decision was not accepted by ZATCA, ZATCA filed an appeal against the contested Decision by virtue of an appeal brief that included the following:

With regard to ZATCA Appeal against the Primary Department Decision, this Appeal was filed to request abolishment of the Decision reached by the Primary Department and confirming acceptance of Zakat Payer objection to the items under appeal based on the Grounds mentioned in ZATCA appeal brief. Therefore, ZATCA maintained the validity and integrity of its action and requested reversal of the Primary Department Decision regarding items under appeal based on the abovementioned Grounds.

On Monday, 26/11/1442 AH corresponding to 05/07/2021 AD, the Department decided to hold an e-pleading session for (10) days, in which ZATCA submitted a Reply responding to Zakat Payer Appeal. In summary, ZATCA maintained the validity and integrity of its action, and that Zakat Payer arguments did not differ from its previously submitted ones, to which ZATCA has already answered at that time. In addition, ZATCA requested dismissal of any new petitions submitted by Zakat Payer in accordance with Article (186) of Law of Civil Procedure. Thereupon, ZATCA insisted on the validity and integrity of its action and requested reversal of Zakat Payer Appeal and confirmation of the Primary Department Decision based on the aforementioned Grounds.

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On Sunday, 01/02/1444 AH corresponding to 28/08/2022 AD, upon reviewing appeal notes and replies thereto, examining all papers and Documents contained in Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision on its merits. Accordingly, the Department decided to close pleadings and set a date for adjudication.

Grounds

When reviewing Case Documents and Appeal Brief submitted by the Appellant Company and ZATCA, the Department was satisfied that conditions of appeal hearing have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. Therefore, both appeal requests were accepted in form because they were submitted by persons with legal capacity and within the legally prescribed period.

On Merits, having taken cognizance of Case file and the appeal briefs submitted by both the appellant company and ZATCA, the Department found that ZATCA assessment was performed after expiration of the statutory period for making amendments to Zakat Payer declaration, which is five years from the deadline for filing Zakat Payer declaration for each year. It is worth noting that these rules are established to maintain transaction stability and prevent instability of Zakat Payer financial positions in case of lack of a timeframe that ensures maintaining their financial positions. Since this matter does not result in releasing Zakat Payer from its legal obligation if Zakat Payer is already concerned with fulfilling such obligation but rather outlines a procedural issue with relation to ZATCA right to assess Zakat Payer after expiry of statutory period. Therefore, the Department concluded that ZATCA action represented in making amendments was invalid. Thereupon, the Department decided to cancel zakat assessment performed by ZATCA for the dispute years, calculate zakat imposed on Zakat Payer for the dispute years based on Zakat Payer declaration, and reverse the Primary Department Decision reached with regard to Zakat Payer assessment.

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

Decision

First: In form, accept the Appeal filed by Zakat Payer/ .....Company, C.R. No. ....., TIN No.....…, and the Appeal filed by ZATCA against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-107), issued in Case No. (Z-85-2018) with relation to zakat assessment for the period (2001- 2008 AD).

Second: On Merits:

Cancel ZATCA assessment, subject matter of this appeal, overturn the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Jeddah in this regard, and confirm calculation of zakat based on Zakat Payer declaration for these years, in accordance with Grounds and merits mentioned herein.

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Keywords
Zakat - Accounts - Approval of Financial Statements - Short-Term Loans - Long-Term loans - Investments - Fixed assets

Abstract

Appellant (Zakat Payer/ZATCA) filed its Appeal to request cancellation of the Primary Department Decision No. (IZJ-2020-118) on zakat assessment for the period (2008-2013 AD). With regard to ZATCA Appeal on the formal aspect, it was clear that such appeal was filed to consider Zakat Payer objection to 2008 zakat assessment, concerning which a primary Decision was issued. With regard to (the Department Decision concerning the amendment of Defendant Decision with relation to Items No. (3), (4), (6), (9), (10), (11), (13), (14), and (15) based on precedence of issuance dates of financial statements prepared by chartered accounting offices), Item (short-term loan balance for the years 2011 AD and 2012 AD), the statements presented in ZATCA Appeal regarding ambiguity of the Primary Department Decision, Item (Adding Investments to Zakat Base), and Item (Adding Fixed Assets to Zakat Base), ZATCA filed its Appeal to challenge the Primary Department Decision. As for Item (Approval of Financial Statements issued by ..... Office), Zakat Payer filed its Appeal to challenge the Primary Department Decision reached with regard to that Item. With regard to (the Department Decision concerning the amendment of Defendant Decision with regard to Items No. (3), (4), (6), (9), (10), (11), (13), (14), and (15) due to precedence of the issuance dates of financial statements prepared by chartered accounting offices), and Item (Short-Term Loan Balance for the Years 2011AD and 2012 AD), the Department found that the dispute was centered around the source information related to such Item. Accordingly, the Department decided to reject ZATCA Appeal, accept Zakat Payer Appeal with regard to Item (Approval of Financial Statements Issued by ..... Office for the years 2009 AD and 2010 AD), and reject Zakat Payer Appeal with regard to the same Item for the period (2011-2013 AD)

Instrument:

- Zakat Law promulgated by Royal Decree No. (17/28/577) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

To consider the appeal filed on .. /../... corresponding to .. /../.... filed by (...), holder of National ID No. (...), in his capacity as Attorney of Appellant Company subject to POA No. (....), and the Appeal filed on ... /.. /.... corresponding to .... /.. by ZATCA against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-118) issued in Case No. (Z-131-2018) on zakat assessment for the

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period (2008-2013 AD), filed by the Appellant against ZATCA, in which the primary Decision ruled as follows:

First: In form: Accept the Case filed by Plaintiff, C.R. No. : (...) In form.

Second: On Merits:

Reject the objection raised by Plaintiff/ (.....) against field inspection procedures for the period (2008-2013 AD).

Amend Defendant Decision on approval of the financial statements provided by Plaintiff/ (.....) for the period (2008-2013 AD) according to the precedence of their preparation dates, as follows: 1. 2008 financial statements prepared by (.....) Company; 2. 2009 financial statements prepared by (.....) Office; 3. 2010 financial statements prepared by (.....) Office; 4. 2011 financial statements prepared by (.....) Company; 5. 2012 financial statements prepared by (.....) Company; 6. 2013 financial statements prepared by (.....) Company.

Amend Defendant Decision through adding credit balances based on opening accounts or closing accounts of the year, whichever is less, to Plaintiff zakat base (.....) for the period (2008-2013 AD) according to the precedence of their preparation dates, as follows: 1. 2008 financial statements prepared by (.....) Company; 2. 2009 financial statements prepared by (.....) Office; 3. 2010 financial statements prepared by (.....) Office; 4. 2011 financial statements prepared by (.....) Company; 5. 2012 financial statements prepared by (.....) Company; 6. 2013 financial statements prepared by (.....) Company.

Amend Defendant Decision through adding net accounting profit to zakat base (.....) for the period (2008-2013 AD) according to the precedence of their preparation dates, as follows: 1. 2008 financial statements prepared by (.....) Company; 2. 2009 financial statements prepared by (.....) Office; 3. 2010 financial statements prepared by (.....) Office; 4. 2011 financial statements prepared by (.....) Company; 5. 2012 financial statements prepared by (.....) Company; 6. 2013 financial statements prepared by (.....) Company.

Reject the objection raised by Plaintiff/ (.....) regarding Item (2008 Investment Value Provision).

Amend Defendant Decision through adding the opening balance of the period (After deducting the balance used throughout the year) to zakat base of Plaintiff (.....) for the period (2008-2013 AD) according to the precedence of their preparation dates, as follows: 1. 2008 financial statements prepared by (.....) Company; 2. 2009 financial statements prepared by (.....) Office; 3. 2010 financial statements prepared by (.....) Office; 4. 2011 financial statements prepared by (.....) Company; 5. 2012 financial statements prepared by (.....) Company; 6. 2013 financial statements prepared by (.....) Company.

Reject the objection raised by Plaintiff/ (.....) With regard to Item (Disposed Doubtful Debts Provision for the Years 2012 AD and 2013 AD).

Reject the objection raised by Plaintiff/ (.....) with regard to Item (2013 Zakat Provision).

Amend Defendant Decision through adding the statutory reserve based on the opening accounts of the year to zakat base of Plaintiff (.....) for the period (2008-2013 AD) according to the precedence of their preparation dates, as follows: 1. 2008 financial statements prepared by (.....) Company; 2. 2009 financial statements prepared by (.....) Office; 3. 2010 financial statements prepared by (.....) Office; 4. 2011 financial statements prepared by (.....) Company; 5. 2012 financial statements prepared by (.....) Company; 6. 2013 financial statements prepared by (.....) Company.

Amend Defendant Decision through adding retained earnings based on opening accounts, to zakat base of Plaintiff (.....) for the period (2008-2012 AD) according to the precedence of their preparation dates, as follows: 1. 2008 financial statements prepared by (.....) Company; 2. 2009 financial statements prepared by (.....) Office; 3. 2010 financial statements prepared by (.....) Office; 4. 2011 financial statements prepared by (.....) Company; 5. 2012 financial statements prepared by (.....) Company;

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Amend Defendant Decision through adding balance of accounts payable and due amounts based on opening accounts or closing accounts, whichever is less, to zakat base of Plaintiff (.....) for the period (2008-2013 AD) according to the precedence of their preparation dates, as follows: 1. 2008 financial statements prepared by (.....) Company; 2. 2009 financial statements prepared by (.....) Office; 3. 2010 financial statements prepared by (.....) Office; 4. 2011 financial statements prepared by (.....) Company; 5. 2012 financial statements prepared by (.....) Company; 6. 2013 financial statements prepared by (.....) Company.

Reject the objection raised by Plaintiff/ (.....) with regard to Item (2013 Creditor Banks).

Amend Defendant Decision through adding amounts in excess of the value of performed works, to zakat base of Plaintiff (.....) for the years 2008 AD and 2009 AD based on the precedence of the issuance dates of financial statements prepared by chartered accounting offices, which are as follows: 1. 2008 financial statements prepared by (.....) Company; 2. 2009 financial statements prepared by (.....) Office;

Amend Defendant Decision through adding short-term loans to zakat base of Plaintiff (.....) for the period (2008-2012 AD) according to the precedence of their preparation dates, as follows: 1. 2008 financial statements prepared by (.....) Company; 2. 2009 financial statements prepared by (.....) Office; 3. 2010 financial statements prepared by (.....) Office; 4. 2011 financial statements prepared by (.....) Company; 5. 2012 financial statements prepared by (.....) Company.

Amend Defendant Decision through adding long-term loans to zakat base of Plaintiff (.....) for the years 2008 AD and 2009 AD based on the precedence of the issuance dates of financial statements prepared by chartered accounting offices, which are as follows: 1. 2008 financial statements prepared by (.....) Company; 2. 2009 financial statements prepared by (.....) Office;

Amend Defendant Decision through adding Investments to zakat base of Plaintiff (.....) for the period (2008-2010 AD) according to the precedence of their preparation dates, as follows: 1. 2008 financial statements prepared by (.....) Company; 2. 2009 financial statements prepared by (.....) Office; 3. 2010 financial statements prepared by (.....) Office; 4. 2011 financial statements prepared by (.....) Company; 5. 2012 financial statements prepared by (.....) Company; 2013 financial statements prepared by (.....) Company;

Amend Defendant Decision through adding Fixed Assets to zakat base of Plaintiff (.....) for the period (2009-2013 AD) according to the precedence of their preparation dates, as follows: 1. 2008 financial statements prepared by (.....) Company; 2. 2009 financial statements prepared by (.....) Office; 3. 2010 financial statements prepared by (.....) Office; 4. 2011 financial statements prepared by (.....) Company; 5. 2012 financial statements prepared by (.....) Company; 2013 financial statements prepared by (.....) Company;

Reject the objection raised by Plaintiff/ (.....) with regard to Item (2013 Advance Payment).

Reject the objection raised by Plaintiff/ (.....) with regard to Item (Relevant Parties for the Year 2013 AD).

Reject the objection raised by Plaintiff/ (.....) with regard to Item (2013 Due Expenses).

Dissatisfied with that Decision, both parties filed a statement of appeal summarized as follows:

Zakat Payer filed its Appeal to challenge the Primary Department Decision. With regard to Item (Approval of Financial Statements issued by ..... Office for the Period 2008-2013 AD), Zakat Payer confirmed that the bases of the administrative Decision under dispute are not satisfied in full due to invalidity of the basis of Grounds adopted to reach the same, which was ZATCA claim that the financial statements approved by (.....) Chartered Accountants are not valid. Zakat Payer also argued that acceptance by the Primary Committee of the financial statements prepared by (.....) Office for the years 2009 AD

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and 2010 AD based on the precedence of their issuance dates is an evidence that the Committee believed that the financial statements were unquestionable, valid, correct, and reflected the actual financial position of the company. Moreover, Zakat Payer claimed that the financial statements prepared by (.....) Office were the actual and valid financial statements because they are endorsed by external governmental entities, such as Ministry of Finance, through matching contract Documents provided to the Ministry with those attached to financial statements, matching statements received form General Organization for Social Insurance (GOSI) with those recognized in the financial statements as expenses related to remunerations and salaries, matching bank balances with balances mentioned in financial statements, and matching financial statements prepared in accordance with requirements of Saudi Companies Law with audited financial statements prepared by (...) Chartered Accountants licensed in accordance with Law of Certified Public Accountants Moreover, the Primary Department issued its Decision based on the precedence of financial statements' issuance dates, and this is incorrect pursuant to accounting bases and principles and applicable methods for preparing financial statements and is contrary to the principle of equality of legal positions since financial statements reflect financial positions at a particular time and show the balances available through out that period, or in other words, closing balances, which are then considered as opening balances of the upcoming fiscal year. So, it is clear that the discrepancy between financial statements emerged as a result of amending company results by either party involved in the estimating equation to obtain funding from banks without any accounting errors or concealment. Additionally, as a result of the Primary Committee Decision, the company was requested to pay amounts without taking into consideration that (70%) of the company shares were acquired by new owners who had no relation to the years of dispute but were concerned with paying imposed zakat. Accordingly, Zakat Payer requested reversal of the Primary Department Decision with regard to the disputed item based on the abovementioned Grounds.

This Decision was not accepted by ZATCA , so ZATCA filed its Appeal against the challenged Decision pursuant to an appeal brief that included the following, in summary: First of all, ZATCA filed its Appeal against the Primary Department Decision to request refusal of the Case consideration because it was previously adjudicated, and the same matter was previously raised before the Primary Department and rejected thereby. With regard to Item (Financial Statements for the Period 2008-2013 AD, which were based on the Precedence of their Preparation Dates), ZATCA requested cancellation of the Primary Department Decision on approving the financial statements for the period 2008-2013 AD based on precedence of the same due to non-matching of the period opening and closing balances, as financial statements shall be prepared based on applicable accounting standards and principles, most importantly previous and subsequent financial events. This means that any financial event that occurred at the end of a period shall be consistent with the same financial event that occurred at the beginning of the period for the upcoming year. Therefore, the Primary Department decided that ZATCA action shall be amended based on the fact that all financial statements were prepared after reviewing and matching Appellant accounts and Documents, and such matching was approved by the company management. Therefore, the financial statements for the period (2008-2013 AD) were approved based on precedence of issuance dates. Additionally, ZATCA claimed that the Grounds upon which the Primary Department Decision was taken are ambiguous. With regard to Item (Amounts in Excess of the Value of Performed Works for the Period 2008-2012 AD), Item (Short-Term Loans for the Years 2008 AD and 2009 AD), and Item (Long-Term Loans for the Years 2008 AD and 2009 AD), the Primary Department decided to add such Items to zakat base based on financial statements approved by the Department, but it did not determine whether balances should be approved. Finally, the Primary

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Department decided to cancel ZATCA Decision. As for Item (Adding Investments to Zakat Base for the Period 2008-2010 AD), ZATCA clarified that investments are not added to zakat base but rather deducted therefrom. Therefore, the verdict was inconsistent with zakat base calculation mechanism, which in turn proved that such Decision was flowed. Moreover, the Department relied on audited financial statements based on precedence of preparation dates, and the conditions set forth in Ministerial Resolution No. (1005) dated 28/04/1428 AH were not satisfied as well. Additionally, such Decision also stipulated that such item shall be added pursuant to financial statements for the period (2011-2013 AD), which was not covered by the Item; therefore, the declaration should be amended and such Item shall be deducted from zakat base, not added thereto. With reference to Item (Adding Fixed Assets for the Period 2009-2013 AD), ZATCA clarified that fixed assets are not added to zakat base but rather deducted therefrom. Therefore, the verdict was inconsistent with zakat base calculation mechanism, which in turn proved that the Decision was flawed. Also, ZATCA relied on a ministerial Decision issued with regard to investments, not fixed assets. Also, the balance should have been determined if it was unclear, which made the Department Decision ambiguous and flawed. Furthermore, the Department did not request Zakat Payer to prove the validity of its objection, nor did it provide any Documents to that effect. Zakat Payer also requested rejection of any further Documents that were not provided previously before it. The Primary Department decided to cancel ZATCA action and add fixed assets to zakat base based on the precedence of preparation dates. On the other hand, ZATCA requested rejection of any further Documents that were not previously submitted during the examination and objection stages. Therefore, ZATCA maintained the validity and integrity of its action and requested reversal of the Primary Department Decision with regard to the Item under appeal based on the abovementioned Grounds.

The Department decided to open pleadings, and ZATCA provided a Reply on 21/09/1442 AH, corresponding to 02/05/2021 AD. In summary, ZATCA contested the formal aspect due to Zakat Payer failure to pay or provide the financial security, which is a prerequisite for hearing its Case based on Article (23.3.D) of Implementing Regulation for Zakat Collection issued in 1438 AH. ZATCA also confirmed that after reviewing the Case papers, it was clear that Zakat Payer did not submit an appeal brief, so ZATCA was unable to limit Zakat Payer requests and identify the items, subject matter of the appeal. ZATCA also requested the Department to disregard Zakat Payer appeal due to its failure to file the Case in accordance with Article (41) of Law of Civil Procedures and Article (8) of Tax Dispute and Violation Committee Procedures. Therefore, ZATCA maintained the validity and integrity of its action and requested reversal of Zakat Payer Appeal and confirmation of the Primary Department Decision based on the abovementioned Grounds. Zakat Payer also submitted a Reply, in which it requested reversal of ZATCA Appeal in form, confirmation of the Primary Department Decision with regard to Items being appealed by ZATCA, and cancellation of ZATCA assessment, subject matter of the Case.

On Sunday, 01/02/1444 AH corresponding to 28/08/2022 AD, the Department decided to hold an e-pleading session for (10) days, in which ZATCA provided a Reply. In summary, ZATCA confirmed in its Reply the validity and integrity of its action and that statements raised by Zakat Payer did not differ from its previously provided statements, which were responded by ZATCA at the time. With regard to Item (Field Inspection Procedures for the Period 2008-2013 AD), ZATCA clarified that there is no defect or error in the performed field inspection procedures, and also there is no transgression by the inspection team members. Therefore, nothing compromised the integrity of the inspection process. ZATCA also confirmed the validity of the Primary Department Decision since it was issued in accordance with Article (21.1) and Article (21.4) of Implementing Regulation for Zakat Collection issued in 1438 AH. Based on inspection reports and submitted

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Documents, the Committee found that there was no defect in the performed inspection procedures, which in turn confirmed the validity of ZATCA action, and therefore requested confirmation of the Primary Department Decision. With regard to Item (Approval of Plaintiff Financial Statements for the Period 2008-2013 AD), Item (Credit balances at the beginning or end of the period, whichever is less, for the period 2008-2013 AD), Item (Net Accounting Profit for the Period 2008-2013 AD), Item (Adding opening balance - after deducting the balance used during the year - to zakat base for the period 2008-2013 AD), Item (Adding statutory reserve at the beginning of the year to zakat base for the period 2008-2013 AD), Item (Retained earnings for the period 2008-2012 AD), Item (Accounts payable balances and due amounts for the period 2008-2013 AD), Item (Adding amounts in excess of performed work value to zakat base for the years 2008 AD and 2009 AD), Item (Short-term loans for the period 2008-2012 AD), Item (Long-term loans for the years 2008 AD and 2009 AD), Item (Investments for the period 2008-2010 AD), and Item (Fixed Assets for the years 2009 AD and 2013 AD), ZATCA filed its appeal concerning these Items pursuant to the appeal brief submitted on 10/11/2020 AD and requested the Department to review the Facts mentioned therein for avoidance of repetition. Concerning Item (2018 Investment Value Provision), ZATCA maintained the validity of the Primary Department Decision, as it was issued in accordance with ZATCA Circular No. (2/8443/2) dated 18/08/1392 AD and Articles (5.1) and (6.2) of Implementing Regulation for Zakat Collection issued in 1438 AH, since Zakat Payer did not submit any new Documents concerning that item in its appeal brief. As for Item (Provision for doubtful debts for the years 2012 AD and 2013 AD) and Item (2013 Zakat Provision), ZATCA maintained the validity of the Primary Department Decision, as it was issued in accordance with Articles (4.9) and (6.6) of Implementing Regulation for Zakat Collection issued in 1438 AH, as Zakat Payer did not submit any new Documents concerning that item in its appeal brief. Therefore, ZATCA confirmed the validity and integrity of its action. With regard to Item (Creditor Banks for the year 2013), ZATCA maintained the validity of the Primary Department Decision, as it was issued in accordance with Fatwa No. (2/2384) dated 1406 Ah, Fatwa No. (22665) dated 15/04/1424 AH, and Article (4.5) of Implementing Regulation for Zakat Collection issued in 1438 AH, since loans constitute a part of zakat base regardless of their type, source, or usage field, provided that balances shall complete a year in accordance with the abovementioned Fatwas and Articles. Therefore, ZATCA confirmed the validity and integrity of its action side by side with the Primary Department Decision. Regarding Item (2013 Advance Payments), ZATCA maintained the validity of the Primary Department Decision reached with regard to that item, as it was issued in accordance with Fatwa No. (23408) dated 18/11/1426 Ah, Fatwa No. (22384) dated 30/03/1406 AH, and Article (4.4) of Implementing Regulation for Zakat Collection issued in 1438 AH since Plaintiff failed to provide any Documents supporting its allegation or supporting Documents proving noncompletion of a year, which in turn confirmed the validity of ZATCA action and the Decision taken by the Primary Department. As for Item (Relevant Parties for the year 2013 AD), ZATCA maintained the validity of the Primary Department Decision reached with regard to that Item, as it was issued in accordance with Fatwa No. (2/2384) of 1406 AH and Article (4.I.5) of Implementing Regulation for Zakat Collection issued in 1438 AH, since Plaintiff failed to provide any Documents supporting its allegation or related supporting Documents, which in turn confirmed the validity of ZATCA action and the Decision reached by the Primary Department. With reference to Item (2013 Due Expenses), ZATCA maintained the validity of the Primary Department Decision, as it was issued in accordance with Article (5.1) and Article (6.2) of Implementing Regulation for Zakat Collection issued in 1438 AH and Fatwa No. (3077/2) dated 08/11/1426 AH, since Plaintiff failed to provide any Documents supporting its allegation or related supporting Documents, which in turn confirmed the

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validity of ZATCA action and the Decision reached by the Primary Department. Moreover, ZATCA requested rejection of any further Documents that were not submitted previously before it or before the Primary Department and also requested the Department not to accept any new requests from Zakat Payer in accordance with Article (186) of Law of Civil Procedures. Therefore, ZATCA maintained the validity and integrity of its action and requested reversal of Zakat Payer Appeal and confirmation of the Primary Department Decision reached with regard to contested items based on the abovementioned Grounds.
On Tuesday, 03/02/1444 AH corresponding to 30/08/2022 AD, upon reviewing appeal notes and replies thereto, examining all papers and Documents contained in Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision on its merits. Accordingly, the Department decided to close pleadings and set a date for adjudication.

Grounds

When reviewing Case Documents and Appeal Brief submitted by the Appellant Company and ZATCA, the Department was satisfied that conditions of appeal hearing have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. Therefore, both appeal requests were accepted in form because they were submitted by persons with legal capacity and within the legally prescribed period.
On merits, with regard to ZATCA Appeal concerning the formal aspect, upon reviewing ZATCA Appeal, the Department found that it was centered around considering Zakat Payer objection to the 2008 assessment, in which the Primary Department Decision has previously been issued. The Department found that ZATCA has imposed zakat on Zakat Payer twice for the same year after issuance of the Primary Department Decision. Since a final judgment was issued with regard to the dispute year, such judgment shall have the force of res judicata. Therefore, the Department concluded that ZATCA was not entitled to impose zakat on Zakat Payer for the year 2008 AD. Since the Department decided that ZATCA assessment for that year was prescribed, accordingly, its amended assessment shall not be considered after the Department Decision concerning prescription of ZATCA second assessment, the subject matter of the Primary Department Decision. Therefore, the Department decided to reject ZATCA Appeal concerning this Item.
With regard to Item (Approval of financial statements issued by (...) Office for the Period 2009-2013 AD), Zakat Payer filed its Appeal to challenge the Primary Department Decision issued in this regard, as Zakat Payer claimed that the bases upon which the administrative Decision under dispute was issued were not satisfied in full due to invalidity of Grounds in ZATCA claim that the financial statements were not true, despite being accepted by the Primary Department according to the precedence of issuance dates, which proved that the financial statements were true and valid and reflected the actual financial position of the company. On the other hand, ZATCA confirmed the validity and integrity of its action and requested rejection of Zakat Payer Appeal and confirmation of the Primary Department Decision. The Department has established that ZATCA assessment for that period (2009-2010 AD) was performed after expiration of the legally prescribed period for amending Zakat payer declaration, which is five years from the final deadline for submitting Zakat Payer declaration for each year. It is worth noting that these rules are established to maintain transaction stability and prevent instability of Zakat Payer financial positions in case of lack of a timeframe that ensures maintaining their financial positions. Since this matter does not result in releasing Zakat Payer from its legal obligation if Zakat Payer is already concerned with fulfilling such obligation but rather outlines a procedural issue with relation to ZATCA right to assess Zakat Payer after expiry of statutory period. Therefore, the Department concluded that ZATCA action represented in making such

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amendments was invalid. Accordingly, the Department decided to accept Zakat Payer Appeal and reverse the Decision reached by the Primary Department in this regard.

With regard to Zakat Payer objection for the period (2011-2013 AD), Zakat Payer requested to have his accounts reviewed by more than one chartered accountant for the same year without any reference in the subsequent financial statements to the reasons for amendments to the balances of the previous financial statements, which considered evidence of its intention to reach a predetermined financial position or financial performance that is not reflected in the actual economic transactions and data mentioned in commercial registers. It is worth noting that preparing more than one set of financial statements for the same year with different financial data, is considered a valid reason for disregarding the same if the subsequent financial statements do not include objective reasons for amending the previous ones. Moreover, recognizing different amounts in various financial statements could be attributed to invalidity of financial statements' presentation or incompleteness of accounting books. Since ZATCA did not disregard Zakat Payer financial statements, the Primary Department decided to consider financial statements based on precedence of their revision, and the Grounds adopted by the Primary Department were justified based on the fact that the oldest financial statements included information reflecting Zakat Payer financial position and business results; therefore, the Department decided to reject Zakat Payer Appeal and uphold the Primary Department Decision.

With regard to (the Department Decision concerning amendment of Defendant Decision regarding Items No. (3), (4), (6), (9), (10), (11), (13), (14), and (15) based on precedence of issuance dates of financial statements prepared by chartered accounting offices), ZATCA filed its Appeal to challenge the Primary Department Decision, as it claimed that balances in the period opening accounts did not match with balances in the period closing accounts, and financial statements shall be prepared based on applicable accounting standards and principles, most importantly the previous and subsequent financial events. However, Zakat Payer requested reversal of ZATCA Appeal and confirmation of the Primary Department Decision. Upon considering the dispute subject matter, reviewing ZATCA Appeal, and examining papers included in Case file, since ZATCA Appeal was filed based on the Department Decision with regard to adoption of financial statements of each year according to their precedence, and since the department confirmed the validity of the Primary Department Decision, the Department decided to reject ZATCA Appeal and amend ZATCA assessment based on the financial statements approved by the Primary Department and this Department for the years that are still within the legally prescribed period.

As for the allegations mentioned in the ZATCA Appeal, which stated that the Primary Department Decision was ambiguous with regard to the balance of short-term loans for the years 2011 AD and 2012 AD, since this Department confirmed the Primary Department Decision concerning imposing zakat on Zakat Payer based on its financial statements of the years preceding to these two years; therefore, there was no need for determining the balance, as the dispute was not related to such balance, but rather the source of the information related to this item. Therefore, the Department decided to disregard ZATCA Appeal.

Regarding Item (Adding Investments to Zakat Base for the Period 2008-2010 AD), ZATCA filed its Appeal to challenge the Primary Department Decision with regard to that Item. ZATCA claimed that investments are not added to zakat base but rather deducted therefrom. Therefore, the verdict was inconsistent with zakat base calculation mechanism, which in turn proved that such Decision was flowed. Also, the Decision ruled to add such item based on financial statements of the period (2001-2013 AD), which was not covered by such item. Therefore, the Decision shall be amended and shall stipulate that such Item

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shall be deducted from zakat base, not added thereto, and shall determine the related balance. On the other hand, Zakat Payer requested rejection of ZATCA Appeal and confirmation of the Primary Department Decision. After reviewing ZATCA Appeal and examining the Documents contained in Case file, since the Department was satisfied with the expiration of the legally prescribed period during which ZATCA has the right to make its assessment, and decided to depend on Zakat Payer declaration. Therefore, the Department reject ZATCA Appeal regarding this Item. As for ZATCA claim mentioned in its Appeal concerning adding the years that were not covered by objection subject matter with relation to this Item, upon reviewing the Primary Department Decision, the Department was satisfied that ZATCA claim was just an additional explanation for the verdict and did not affect the subject matter thereof, as the verdict referred to the disputed years and such additional explanation was related to determining the financial statements that should be depended upon when performing zakat assessment. Therefore, the Department decided that such error did not affect the verdict reached by the Department. Regarding Item (Adding Fixed Assets to Zakat Base for the Period 2009-2013 AD), ZATCA filed its Appeal to challenge the Primary Department Decision with regard to that Item. ZATCA claimed that fixed assets are not added to zakat base but rather deducted therefrom. Therefore, the verdict was inconsistent with zakat base calculation mechanism, which in turn proved that such Decision was flowed. However, Zakat Payer requested reversal of ZATCA Appeal and confirmation of the Primary Department Decision. Upon considering the dispute subject matter with regard to the years 2009 AD and 2010 AD, the Department decided that the legally prescribed period during which ZATCA has the right to make assessments had passed. Accordingly, the Department decided to approve Zakat Payer declaration. With regard to the years 2011 AD and 2013 AD, the Department reviewed ZATCA Appeal, examined Documents contained in Case file, and found that ZATCA Appeal was filed to challenge the Primary Department Decision regarding approving financial statements prepared for each year according to the precedence of their issuance dates. The Department confirmed the Primary Department Decision and decided to reject ZATCA Appeal and amend ZATCA assessment based on the financial statements approved by the Primary Department and supported by this Department for the years 2011 AD and 2013 AD. With reference to ZATCA claims regarding the Department's negligence in depending on the ministerial Decision issued with relation to investments, the Department was satisfied that this matter did not affect the final conclusion reached in the Decision under appeal, which required amendment of ZATCA assessment in accordance with the financial statement that the Department decided to adopt for performing zakat assessment of Zakat Payer.

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

Decision

First: In from:

Accept the Appeal filed by Zakat Payer/(... Company), C.R. No. (...), TIN (...), and the Appeal filed by ZATCA against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-118), issued in Case No. (Z-131-2018), in connection with zakat assessment for the period (2008-2013 AD).

Second: On Merits:

1. Reject ZATCA Appeal regarding the preemptory defense related to dismissing the Case due to previous adjudication therein, and uphold the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with Grounds and merits mentioned herein.
2. With regard to Item (Approval of financial statements issued by (...) Office for the Period 2009-2013 AD):

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A. Accept Zakat Payer Appeal regarding this item for the years 2009 AD and 2013 AD, and overturn the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with Grounds and merits mentioned herein.
B. Reject Zakat Payer Appeal regarding that Item for the period (2011-2013 AD), and uphold the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with Grounds and merits mentioned herein.

3. Reject ZATCA Appeal regarding (the Primary Department Decision concerning amendment of Defendant Decision regarding Items No. (3), (4), (6), (9), (10), (11), (13), (14), and (15) based on precedence of issuance dates of financial statements prepared by chartered accounting offices), and amend ZATCA assessment based on the financial statements approved by the Primary Department and supported by this Department, for the years that are still within the legally prescribed period, in accordance with Grounds and merits mentioned herein.
4. Disregard Zakat Payer Appeal regarding ambiguity the Primary Department Decision with regard to short-term loans for the years 2011 AD and 2012 AD, in accordance with Grounds and merits mentioned herein.
5. Dismiss ZATCA Appeal on Item (Adding investments to zakat base for the period 2008-2010 AD), approve Zakat Payer declaration, and overturn Decision taken by First Department for Determination of Income Tax Violations and Disputes in Jaddah, in accordance with Grounds and merits mentioned herein.
6. With regard to ZATCA Appeal on Item (Adding fixed assets to zakat base for the period 2009-2013 AD):
   A. Reject ZATCA Appeal on this Item for the years 2009 AD and 2010 AD and approve Zakat Payer declaration, in accordance with Grounds and merits mentioned herein.
   B. Reject ZATCA Appeal on this Item for the period (2011-2013 AD), and approve amendment of ZATCA assessment based on the financial statements approved by the Primary Department and supported by this Department for the period (2011-2013 AD), in accordance with Grounds and merits mentioned herein.

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Decision No. IR-2022-304
Case No. Z-25795-2020

Keywords
Zakat - Estimated - COVID-19 Pandemic - Failure to Attend Hearings - Remanding the Case

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (ISZR-2020-96), regarding zakat assessment for 1438 AH. Zakat Payer filed its Appeal to challenge the Primary Department Decision. Zakat Payer failed to attend the hearings before the Primary Department. The Department found that the Case was not ready for adjudication due to Zakat Payer failure to attend hearings before the Primary Department. Therefore, the Department decided to cancel the Primary Department Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (17/28/577) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

The Department convened a session to consider the Appeal filed on .../../..... AH, corresponding to ../../.... AD, by (.....), National ID No. (...), in his capacity as Owner of Appellant Institution, against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-96) issued in Case No. (Z-8538-2019), with relation to Zakat assessment for the year 1438 AH, filed by Appellant against ZATCA, in which the Primary Department Decision ruled as follows:
Accept the Case filed by Plaintiff/....., National ID No. (.....), in his capacity as owner of (..... Institution), C.R. No. ....., in form, and dismiss the Case on merits.
Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:
Zakat Payer filed its Appeal to challenge the Primary Department Decision under appeal. Zakat Payer claimed that its absence from hearings before the Primary Department was due to health conditions and because the hearings were held at the time of COVID-19 Pandemic. Zakat Payer claimed that ZATCA determined the aforementioned amount of sales based on VAT data. Zakat Payer also explained that it was unfamiliar with the applicable accounting systems and was working based on an outdated system, as Zakat Payer owns a micro-sized enterprise, so it failed to submit the financial statements at that time as a result of outspread of COVID-19 pandemic, as a result of which the curfew was imposed and suspended business around KSA. Therefore, Zakat Payer request cancellation of the Primary Department Decision under appeal based on the abovementioned Grounds.

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On Sunday, 21/10/1443 AH corresponding to 22/05/2022 AD, the Department decided to hold an e-pleading session for (10) days, in which ZATCA submitted a Reply responding to Zakat Payer Appeal. In summary, ZATCA confirmed in this Reply its perspective presented before the Primary Department and explained that the statements provided by Zakat Payer did not differ from its previous statements, which were responded to by ZATCA at the time. ZATCA also requested Zakat Payer to present the financial statements of the year under dispute, but it failed to do so. Therefore, ZATCA performed an estimated assessment due to failure of Zakat Payer to present its regular accounts and prove the validity of its perspective, in accordance with Article (13.5.B) of Implementing Regulation for Zakat Collection issued in 1438 AH. ZATCA also requested the Department to reject any further Documents that were not presented previously by Zakat Payer during the examination and objection stages, and refuse any new requests submitted by Zakat Payer in accordance with Article (186) of Law of Civil Procedures. Therefore, ZATCA maintained the validity and integrity of its action and requested reversal of Zakat Payer Appeal and confirmation of the Primary Department Decision based on the abovementioned Grounds.
On Thursday, 05/02/1444 AH corresponding to 01/09/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.
On merits, Zakat Payer filed its Appeal to challenge the Primary Department Decision. Zakat Payer claimed that it failed to attend the hearings before the Primary Department due to health conditions and because the hearings coincided with COVID-19 pandemic circumstances. On the other hand, ZATCA maintained the validity and integrity of its action and requested reversal of Zakat Payer Appeal and confirmation of the Primary Department Decision. Upon considering the dispute subject matter and reviewing the Primary Department Decision, the Department found that Zakat Payer did not attend the hearings. Based on the Decision under appeal, it was not clear whether Zakat Payer was granted the sufficient time to provide the required Documents with regard to ZATCA arguments presented to the Primary Department. Also, Zakat Payer claimed that it failed to attend the hearings before the Primary Department due to some difficulties that prevented it from doing so, as the date of such hearings coincided with the precautions imposed as a result of COVID-19 Pandemic. Accordingly, the Department was satisfied that the Case was not ready for adjudication due to failure of Zakat Payer to attend the hearings before the Primary Department. In light of Zakat Payer right to two degrees of litigation, the Department decided to cancel the Primary Department Decision, and remand the Case for reconsideration on its merits.
For these Grounds and after deliberation, the Department unanimously decided to:

Decision

First: In form, accept the Appeal filed by Zakat Payer (... Institution), C.R. No. (…), TIN (…), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISZR-2020-96) rendered in Case No. (Z-8538-2019) regarding tax assessment for 1438 AH.

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Second: On Merits:

Overturn the Decision taken by Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits, in accordance with Grounds and merits mentioned herein.

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

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Keywords
Zakat - Accounts - Performing Assessment After Expiration of the Legally Prescribed Period - Item (Revenues Generated Outside KSA)- Item (Calculating Zakat Based on Adjusted Profit)

Abstract

Appellant (ZATCA/ Zakat Payer) filed its Appeal to request cancellation of the Primary Department Decision No. (IZD-2020-136) with regard to zakat assessment for the period (2005-2007 AD). Zakat Payer Appeal was centered around ZATCA assessment for 2005 AD. With regard to Item (Revenues Generated Outside KSA) and Item (Calculating Zakat Based on Adjusted Profit for the years 2006 AD and 2007 AD), Zakat Payer filed its Appeal to challenge the Primary Department Decision with regard to these Items. The Department found that ZATCA assessment for the year 2005 AD was performed after expiration of the legally prescribed period for making amendments to Zakat Payer declaration. With reference to Item (Revenues Generated Outside KSA), Zakat Payer failed to provide the Documents proving payment of zakat imposed on such foreign investments. As for Item (Calculating Zakat Based on Adjusted Profit for the years 2006 AD and 2007 AD), ZATCA calculated zakat base based on its conclusions concerning the net adjusted profit, which is inconsistent with Sharia rules. Therefore, the Department decided to cancel ZATCA assessment for the year 2005 AD, dismiss ZATCA Appeal with regard to Item (Calculating Zakat Based on Adjusted Profit for the years 2006 AD and 2007 AD), and dismiss Zakat Payer Appeal regarding Item (Revenues Generated Outside KSA).

Instruments:

- Zakat Law promulgated by Royal Decree No. (17/28/577) dated 14/03/1376 AH
- Article (4) of Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

The Case Facts could be summarized as follows: the Department convened a session to consider the Appeal filed on ../../... AH, corresponding to .../../... AD, by /(....) National ID No. (....), in his capacity as Attorney of Appellant Company, subject to POA No.(...), and the Appeal filed by ZATCA on 02/03/1442 AH, corresponding to 18/10/2020 AD, against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-136) issued in Case No. (Z-9110-2019) with relation to zakat assessment for the Period (2005-2007 AD), filed by Appellant against ZATCA, in which the Primary Department Decision ruled as follows:
In from: Accept the case in form.
On Merits:

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- Reject Plaintiff objection regarding Item (Revenues Generated Outside KSA for the period 2005-2007 AD).
- Cancel Defendant Decision on Item (Calculating Zakat Based on Adjusted Profit).
- Confirm resolution of the dispute regarding Item "Material Error".
- Confirm resolution of the dispute regarding Item "Previous Dues".

Dissatisfied with that Decision, both parties filed a statement of appeal summarized as follows:

With regard to Item (Revenues Generated Outside KSA), Zakat Payer filed its Appeal to challenge the Primary Department Decision and demanded excluding the profits generated from businesses performed outside KSA based on the territorial taxation principle. Zakat Payer also explained that the request for exempting profits generated from businesses performed outside KSA was made based on the actual revenues and costs for the period (2005-2007 AD). Therefore, Zakat Payer requested reversal of the Primary Department Decision with regard to the item under appeal based on the abovementioned Grounds.

Since this Decision was not accepted by ZATCA, ZATCA filed an appeal against the contested Decision by virtue of an appeal brief that included the following:

As for Item (Calculating Zakat Based on Adjusted Profit), ZATCA filed its Appeal to challenge the Primary Department Decision, as ZATCA deducted fixed assets within the limits of ownership rights in accordance with Article (4) of Implementing Regulation for Zakat Collection issued by Ministerial Resolution No. (2082) dated 01/06/1438 AH. ZATCA action was also supported Fatwa No. (23408), since the net profit of the two years being assessed is determined only based on closing accounts at the end of the fiscal year, and it cannot be determined whether the purchase of fixed assets during the year was made based on net profits or not, which will not be achieved and only determined at the end of the fiscal year. Consequently, ZATCA maintained the validity and integrity of its action and requested reversal of the Primary Department Decision with regard to Item under appeal based on the abovementioned Grounds.

The Department decided to open pleadings and ZATCA provided a Reply on 09/01/1443 AH corresponding to 17/08/2021 AD. In summary, ZATCA explained in its Reply that it maintained the validity of the Decision under appeal based on the Grounds and legal requirements thereof. ZATCA also explained that Zakat Payer did not submit any new statements that differ from its previous ones, to which ZATCA has responded at the time. Moreover, Zakat Payer demands requiring exemption of profits generated outside KSA based on the territorial taxation principle is only applicable in case of tax cases, not zakat cases, as the Case under appeal, and Ministerial Resolution No. (393) dated 06/08/1370 AH is also applicable to Zakat Payer case. So, ZATCA requested the Department to reject any further Documents that were not submitted previously during examination and objection stages. Therefore, ZATCA maintained the validity and integrity of its action and requested reversal of Zakat Payer Appeal and confirmation of the Primary Department Decision based on the abovementioned Grounds.

On Thursday, 10/11/1443 AH corresponding to 09/06/2022 AD, having reviewed the Case file and based on the Primary Department Decision, which referred that ZATCA assessment for the years under dispute was performed on 03/06/1439 AH, while ZATCA letter served to the General Secretariat regarding Zakat Payer objection referred that ZATCA primary assessment was performed on 20/02/1432 AH and the latter assessment was performed on 16/03/1434 AH; therefore, the Department requested ZATCA to provide an explanation for such multiple assessments side by side with the resulting Zakat Payer objection considered before the Primary Department with regard to the period (2005-2007 AD), the Department also requested ZATCA to provide the assessment letter being disputed, within (7) days from date. Accordingly, ZATCA provided a Reply that included

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the following, in summary: ZATCA issued its Decision No. (6/8275/3) dated 20/02/1432 AH, concerning assessment for the period (2005-2007 AD), and as a result Zakat Payer raised its objection to the aforementioned assessment subject to letter No. (3759) dated 18/04/1432 AH. After reviewing Zakat Payer objection, ZATCA decided to accept such objection in part with regard to some items under dispute, subject to amended assessment letter No. (2/2059) dated 16/03/1434 AH, which is the assessment being challenged in the appealed case (attached hereto). With regard to the appealed Decision issued by the Primary Committee, which included that Plaintiff was notified of the Decision on 03/06/1439 AH, ZATCA confirmed that there is no evidence proving the validity of the Primary Committee statement that the assessment of Zakat Payer was issued on the mentioned date in any way, and there are no previous arguments submitted in this regard before the Primary Committee, whether by ZATC or Zakat Payer. Therefore, ZATCA requested the Department to ask for explanation from the Primary Department issuing the appealed Decision with regard to its statements about issuance of an assessment Decision on 03/06/1439 AH, especially since the Primary Department issuing such Decision had considered and adjudicated the Case in light of the amended assessment letter No. (2/2059) dated 16/03/1434 AH in accordance with Items (III & IV) of the appealed Decision. ZATCA also attached the contested amended assessment letter No. (2059/2) dated 16/03/1434 AH.

On Sunday, 27/11/1443 AH corresponding to 26/06/2022 AD, after reviewing the Primary Department Decision, the Department found that there was a material error related to the issuance date of the ZATCA Decision and Zakat Payer objection thereto. The Department was satisfied that ZATCA Decision being objected by Zakat Payer was issued on 16/03/1434 AH, and Zakat Payer submitted its objection thereto on 15/05/1434 AH, which proved the invalidity of the Primary Department Decision, which stated that the Decision was issued on 03/06/1439 AH and Zakat Payer objection thereto was submitted on 26/07/1439 AH. Therefore, in accordance with Article (38) of Tax Dispute and Violation Committee Procedures, the Department decided to return that Decision to First Department for Determination of Income Tax Violations and Disputes in Dammam for correction, notify both litigants of the same, and remand the Case to this Department for reconsideration.

On Sunday, 21/10/1443 AH corresponding to 22/05/2022 AD, the Department decided to hold an online pleading session for 10 days. The period expired without any additional submissions from either party to the appeal.

On Wednesday, 09/02/1444 AH corresponding to 05/09/2022 AD, after reviewing Appeal briefs and replies thereto and examining Documents and papers contained in Case file, the Department decided that the Case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

When reviewing Case Documents and Appeal Brief submitted by the Appellant Company and ZATCA, the Department was satisfied that conditions of appeal hearing have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. Therefore, both appeal requests were accepted in form because they were submitted by persons with legal capacity and within the legally prescribed period.

On Merits: With regard to ZATCA assessment for Zakat Payer position for the year 2005 AD, after reviewing the submitted appeal and examining Case file, the Department found that ZATCA assessment was performed after expiration of the legally prescribed period for making amendments to Zakat Payer declaration, which is five years from the deadline for filing Zakat Payer declaration for each year. It is worth noting that these rules are

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established to maintain transaction stability and prevent instability of Zakat Payer financial positions in case of lack of a timeframe that ensures maintaining their financial positions. Since this matter does not result in releasing Zakat Payer from its legal obligation if Zakat Payer is already concerned with fulfilling such obligation but rather outlines a procedural issue with relation to ZATCA right to assess Zakat Payer after expiry of statutory period. Therefore, the Department concluded that ZATCA action represented in making amendments to Zakat Payer declaration was invalid. Thereupon, the Department decided to cancel zakat assessment performed by ZATCA for the year 2005 AD, calculate zakat imposed on Zakat Payer based on its declaration, and reverse the Primary Department Decision reached in this regard.

With regard to Item (Revenues Generated Outside KSA), Zakat Payer filed its Appeal to challenge the Primary Department Decision reached with regard to this Item. Zakat Payer claimed that businesses performed outside KSA are not subject to zakat according to the territorial taxation principle. Meanwhile, ZATCA confirmed the validity and integrity of its action and requested reversal of Zakat Payer Appeal and confirmation of the Primary Department Decision. Having considered the dispute subject matter, examined the submitted appeal, and reviewed the Documents contained in Case file, the Department found that Zakat Payer is a Saudi company operating in providing catering and maintenance services for residential complexes and maintaining and installing electrical and mechanical equipment, and generates revenues from the works provided outside KSA through this activity. It is established that Zakat is imposed on capital and realized revenues, and no provisions of applicable laws require exempting foreign investments from Zakat. Also, Zakat Payer failed to provide any supporting Documents proving payment of zakat imposed on such foreign investments. Therefore, the Department decided that zakat shall be imposed on such disputed funds. This does not contradict with the Grounds adopted by Zakat Payer with regard to taxes and neutral territorial zones, since the mentioned principle regulates provisions of Income Tax Law. Therefore, the Department decided to reject Zakat Payer Appeal and confirm the Primary Department Decision reached in this regard.

As for Item (Calculating Zakat Based on Adjusted Profit for the Years 2006 AD and 2007 AD), ZATCA filed its Appeal to challenge the Primary Department Decision with regard to that Item. ZATCA claimed that it deducted fixed assets within the limits of ownership rights in accordance with Article (4) of Implementing Regulation for Zakat Collection issued in 1438 AH. Having considered the dispute subject matter, examined the submitted appeal, and reviewed the Documents contained in Case file, it was clear that ZATCA calculated zakat base based on its conclusions concerning the net adjusted profit, which is inconsistent with Sharia rules, as Zakat Payer is obligated to pay zakat based on the funds available at the time zakat becomes due and payable. So, the zakat amount concluded by ZATCA based on adjusted net profit to represent the zakat base is far away from reality, as it is established to impose zakat based on net profit as a component of zakat base; therefore, zakat base amount is calculated through offsetting positive and negative elements to determine the due zakat amount, regardless of whether it is less/more than the net profit. Therefore, using adjusted net profit to calculate zakat base is not valid because profits resulting from revenues may not exist at the end of the year if they are spent by Zakat Payer to purchase an asset deducted from the zakat base. Therefore, the lesson here is adopting a general and fundamental principle that could be applied for calculating zakat base amount by ZATCA when making zakat assessments without using a method for extracting the adjusted profit when zakat base is less than the adjusted net profit. Consequently, there is no legal basis that required imposing zakat based on adjusted net profit as the zakat base used to calculate due zakat as requested by

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ZATCA from Zakat Payer. As a result, the Department decided to dismiss ZATCA Appeal and confirm the Primary Department Decision reached in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, accept the Appeal submitted by Zakat Payer/ .....Company, C.R. No. ....., TIN No. … , and the Appeal submitted by ZATCA, against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-136), issued in Case No. (Z-9110-2019) with relation to zakat assessment for the period (2005-2007 AD).

Second: On Merits:

1. Cancel ZATCA assessment for the year 2005, overturn the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Dammam reached in this regard, and confirm calculation of zakat based on Zakat Payer declaration for this year, in accordance with Grounds and merits mentioned herein.
2. Dismiss Zakat Payer Appeal regarding Item (Revenues Generated Outside KSA) and uphold the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with Grounds and merits mentioned herein.
3. Dismiss ZATCA Appeal with regard to Item (Calculating Zakat Based on Adjusted Profit), and uphold the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with Grounds and merits mentioned herein.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-307
Case No. Z-27027-2020

Keywords
Zakat - Accounts - Amended Financial Statements - Failure to Provide Evidence of Amendment Validity

Abstract

Appellant (Zakat Payer) requested cancellation of the Primary Department Decision No. (IZJ-2020-92) with regard to zakat assessment for the years 2014 D and 2015 AD. Zakat Payer filed this appeal to challenge the Decision taken by the Primary Department with regard to zakat assessment, subject matter of the Case. With regard to zakat assessment for the years 2014 AD and 2015 AD, the Department was satisfied that Zakat Payer failed to clarify the reasons for re-issuing the financial statements and the claimed justifications for issuing such amended financial statements. As such, the Department, hereby, ruled to dismiss Zakat payer's appeal.

Instruments:

- Zakat Law promulgated by Royal Decree No. (17/28/577) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

The Case Facts could be summarized as follows: the Department convened a session to consider the Appeal filed on 14/02/1442 AH, corresponding to 01/10/2020 AD, by/ ... National ID No. (...), in his capacity as the owner of the Appellant Institution against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-92), issued in Case No. (Z-2119-2019), regarding zakat assessment for the years 2014 AD and 2015 AD, filed by Appellant against ZATCA, in which the Primary Department Decision ruled as follows:

First: In form: Accept the Case filed by Plaintiff (.... Institution), C.R No.: (....) in form.

Second: On Merits:

Reject the objection of Plaintiff (..... Institution) raised against the amended zakat assessment for the years 2014 D and 2015 AD.

Dissatisfied with this Decision, Zakat Payer (... Institution) submitted an appeal brief that could be summarized as follows:

Zakat Payer raised an objection against the Primary Department Decision under appeal, as it claimed that the chartered accountant made a mistake in issuing the financial statements, and as a result ZATCA issued its tax assessment based on such mistaken financial statements although the chartered accountant corrected and uploaded the same again to MoF platform. Therefore, Zakat Payer requested reversal of the Primary Department Decision under appeal based on the abovementioned Grounds.

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On Sunday, 21/10/1443 AH, corresponding to 22/05/2022 AD, the Department decided to convene a10-day e-hearing session, during which ZATCA submitted a Reply responding to Zakat Payer Appeal. ZATCA confirmed in this Reply its point of view presented before the Primary Department. ZATCA also confirmed that the Primary Department Decision was issued in accordance with provisions of Articles (13.5), (13.1), and (20.3) of Implementing Regulation for Zakat Collection. In addition, ZATCA reaffirmed that the arguments of Zakat Payer did not go beyond its previously submitted ones, which were responded to by ZATCA at the time. Therefore, ZATCA requested the Department to reject any new Documents that were not submitted during examination and objection stages. Moreover , ZATCA adhered to the validity and integrity of its action, and requested rejection of Zakat Payer Appeal, and confirmation of the Primary Department Decision based on the abovementioned Grounds.

On Sunday, 13/11/1443 AH corresponding to 12/06/2022 AD, having reviewed the Case file, the Department requested Zakat Payer to submit the financial statements adopted by ZATCA while taking the zakat assessment Decision and submit the amended financial statements side by side with a comparison showing the differences between both financial statement sets and the reasons for amending each item in the amending financial statements, the supporting Documents justifying such amendments, and the chartered accountant report clarifying the Grounds for re-issuing such financial statements. Moreover, the Department requested ZATCA to provide a copy of the financial statements submitted on Qawaem platform for the years 2016, 2017 and 2018 AD, within (30) days from the date thereof. Accordingly, ZATCA provided some Documents, while Zakat Payer failed to submit any requested Documents.

On Thursday, 05/02/1444 AH corresponding to 01/09/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat Payer filed its appeal to challenge the Primary Department Decision with regard to zakat assessment, subject matter of the Case. Zakat Payer claimed that ZATCA issued its assessment based on incorrect financial statements and ignored the corrected financial statements. On the other hand, ZATCA confirmed the validity and integrity of its action and requested reversal of Zakat Payer Appeal and confirmation of the Primary Department Decision. Having considered the dispute subject matter, the Department requested Zakat Payer to provide the reasons for amending each item of the amended financial statements side by side with the supporting Documents proving the validity of such amendments in accordance with the accounting principles applicable for reviewing the amended financial statements by a chartered accountant certifying the validity of the amendments made to such financial statements. Zakat Payer failed to clarify the reasons for re-issuing financial statements and the Grounds justifying issuance of the amended financial statements. The Department was satisfied with the validity of the Primary Department conclusion and, therefore, decided to reject Zakat Payer Appeal and confirm the Primary Department Decision.

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

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Decision

First: In form, accept the Appeal filed by Zakat payer/ .....Institution, C.R. No. (...), TIN (...), against First Department for Determination Zakat Violations and Disputes in Jeddah Decision No. (IZJ-2020-92) delivered in Case No. (Z-2119-2019) on tax assessment for the years 2014 AD and 2015 AD.

Second: On Merits:

Reject the Appeal filed by Zakat Payer and confirm the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Jaddah, in accordance with Grounds and merits mentioned herein.

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Keywords
Zakat - Accounts - Performing Assessment After Expiration of Legally Prescribed Period - Assessment Decision did not Include the Grounds - It is established that Zakat shall be Calculated Based on Zakat Payer Declarations

Abstract

Appellant (Zakat Payer) filed its Appeal to request cancellation of the Primary Department Decision No. (IZJ-2020-151) with regard to zakat assessment for the period (1432-1438 AH). With regard to zakat assessment for the period (1433-1438 AH), Zakat Payer files its appeal to challenge the Primary Department Decision. Since it is established that zakat shall be calculated based on Zakat Payer declarations, and since the Department was satisfied that there was no reason for ignoring the same; therefore, the Department decided to accept Zakat Payer Appeal filed with regard to zakat assessment for the period (1433-1438 AH). Therefore, the Department accepts Zakat Payer's appeal.

Instruments:

- Zakat Law promulgated by Royal Order No. (17/28/577) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

The Facts of the Case could be summarized as follows: The Department convened a session to consider the Appeal filed on 18/04/1442 AH corresponding to 03/12/2020 AD, by (....), holder of National ID No. (.....), in his capacity as attorney of the appellant institution, subject to POA No. (....), against First Appellate Department for Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-151) issued in Case No. (Z-10489-2019) with relation to zakat assessment for the year 1430 AH, and the period (1432-1438 AH), filed by Appellant against ZATCA, in which the Primary Department Decision ruled as follows:

First: In form: Accept the Case filed by Plaintiff (.... Institution), C.R No.: (....), in form, as it was filed during the legally prescribed period.

Second: On Merits:

Amend Defendant Decision taken with regard to estimated zakat assessment of Plaintiff (.... Institution) for the year 1430 AH and the period (1432-1438 AH), based on the merits mentioned herein.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer challenged the Primary Department Decision under appeal, as it claimed that the activity registered in the sub-commercial register No. (…) was suspended since 1426 AH, and ZATCA provided the Department with an old import statement for a period

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ended many years ago, which shall not be subject to reassessment. Also, ZATCA made its zakat assessment based on commercial activities mentioned in C.R No. (…) with the capital of (SAR 150,000) and C.R No. (…) with the capital of (SAR 100,000) and estimated zakat base accordingly. It was clear that the actual capital was much less than the declared amount based on commercial registers. Also, it is established that the net profit percentage achieved during the year is estimated at (15%) of total revenues and is not calculated based on the working capital. Additionally, ZATCA failed to exercise its role in collecting the information required to calculate zakat base, which reflects the actual and real activity in a fair manner. Therefore, Zakat Payer requested reversal of the Primary Department Decision under appeal based on the abovementioned Grounds.

On Tuesday, 29/06/1443 AH corresponding to 01/02/2022 AD, the Department decided to hold a 10-day e-hearing session, during which ZATCA submitted a Reply responding to Zakat Payer Appeal. In summary, ZATCA confirmed in this Reply its perspective presented before the Primary Department. ZATCA also confirmed that its Decision was taken in accordance with provisions of Article (13.6) of Implementing Regulation for Zakat Collection and requested the Department to reject any new requests submitted by Zakat Payer in accordance with Article (186) of Law of Civil Procedures. Therefore, ZATCA maintained the validity and integrity of its action and requested reversal of Zakat Payer Appeal and confirmation of the Primary Department Decision based on the abovementioned Grounds.

On Saturday, 27/10/1443 AH corresponding to 28/05/2022 AD, having reviewed the Case file, the Department requested ZATCA to provide Zakat Payer declarations for the disputed years side by side with a detailed clarification of the Grounds of assessment for each disputed year, including zakat base components, and a detailed explanation showing how each zakat base component was reached with relation to the years of dispute. The Department also requested Zakat Payer to submit the commercial registers, including the disputed activities and the Documents proving suspension of the registers or activities that Zakat Payer claimed that they no longer exist. ZATCA provided the import statements for all years of dispute, and the Department requested Zakat Payer to provide a declaration of all imports performed by it during the disputed years, within (30) days of the date thereof. As a result, ZATCA submitted many of Documents.

On Tuesday, 29/11/1443 AH corresponding to 28/06/2022 AD, having reviewed ZATCA Reply, which showed the total capital amounts and additional amounts registered as additional capital for some disputed years and also showed that ZATCA calculated the percentage of profit based on capital, the Department requested ZATCA to identify its source of information adopted in determining the capital of each Zakat Payer register, the additional capital for some disputed years, and the regulatory basis for calculating the percentage of profit based on capital. The Department also requested ZATCA to clarify whether it has conducted a field inspection for Zakat Payer and submit all the Documents supporting its action, provided that such information shall be submitted for each year of dispute and for each commercial register separately, within (15) days from the date thereof.

On Monday, 03/01/1444 AH corresponding to 01/08/2022 AD, having reviewed ZATCA Reply, ZATCA requested a period to respond to the Department requests, and the Department decided to give ZATCA (30) days to provide its supporting Documents with relation to the Appeal being considered. As a result, ZATCA provided some Documents.

On Thursday, 05/02/1444 AH corresponding to 01/09/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

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Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, with regard to zakat assessment for the years 1430 AH and 1432 AH, the Department found that ZATCA assessment was performed after expiration of the legally prescribed period for amending Zakat payer declaration, which is five years from the final deadline for submitting Zakat Payer declaration for each year. It is worth noting that these rules are established to maintain transaction stability and prevent instability of Zakat Payer financial positions in case of lack of a timeframe that ensures maintaining their financial positions. Since this matter does not result in releasing Zakat Payer from its legal obligation if Zakat Payer is already concerned with fulfilling such obligation but rather outlines a procedural issue with relation to ZATCA right to assess Zakat Payer after expiry of statutory period. Therefore, the Department concluded that ZATCA action represented in making such amendments was invalid. Accordingly, the Department decided to accept Zakat Payer Appeal and reverse the Decision reached by the Primary Department in this regard.

With regard to zakat assessment for the period (1433-1438 AH), Zakat Payer filed its appeal to challenge the Primary Department Decision, as it claimed that ZATCA assessment included amounts that differ from the amounts reflecting the actual and real activity and was performed based on a cancelled register that has been abandoned. On the other hand, ZATCA maintained the validity and integrity of its action and requested reversal of Zakat Payer Appeal and confirmation of the Primary Department Decision. Upon reviewing ZATCA assessment, the Department found that the assessment Decision did not include the Grounds upon which the amounts imposed on Zakat Payer were calculated in accordance with relevant applicable regulatory rules. ZATCA failed to provide the Department with a reasonable justification that could be relied upon to ignore Zakat Payer declarations provided thereto. Therefore, the Department decided that ZATCA action was groundless based on the Documents included in Case file. Given the aforementioned circumstances, since it is established that zakat shall be calculated based on Zakat Payer declarations, and since the Department was satisfied that there was no reason for ignoring Zakat Payer declarations, the Department decided to accept Zakat Payer Appeal, confirm zakat base calculation based on Zakat Payer declarations provided to ZATCA, and reverse the Primary Department Decision.

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

Decision

First: In form, accept the Appeal filed by Zakat Payer/ (...) Institution, C.R. No. (...), TIN No. (...), against First Department for the Determination Zakat Violations and Disputes in Jeddah Decision No. (IZJ-2020-151) delivered in Case No. (Z-10489-2019) on zakat assessment for the year 1430 AH and the period (1432 - 1438 AH).

Second: On Merits:

Accept Zakat Payer Appeal and overturn the Decision taken by First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with Grounds and merits mentioned herein.

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

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Decision No. IR-2022-311
Case No. Z-13259-2020

Keywords
Zakat – Accounts – Other Credit Balances – Accounts Payable – Abolishment of the Appealed Decision

Abstract

The Appellant (Zakat Payer) filed this case to abolish Decision No. (IZJ-2020-10) delivered by the Primary Department regarding Zakat Assessment of 2013 to 2015 AD, as Zakat Payer's appeal included its objection to the Primary Department's Decision regarding items (Other Credit Balances) and (Accounts Payable). The Department, regarding items (Other Credit Balances) and (Accounts Payable), found that the Decision is flawed and must be reversed, which result in non-resolution of dispute as stipulated in its wording. The Department decided to abolish the Primary Department's Decision on items (Other Credit Balances) and (Accounts Payable).

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on …/…/… AH, corresponding to …/…/… AD by Mr. ....., National ID No. ....., in his capacity as the Director of the Appellant Company, by virtue of its Commercial Registration; against Decision No. (IZJ-2020-10) delivered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah in Case No. (Z-86-2018) in connection with Zakat Assessment of 2013 to 2015 AD, filed by Zakat Payer against ZATCA. The appealed Decision ruled as follows:

First: In form:

Accept Plaintiff's (..... Company, C.R. No. ....) case in form.

Second: On merits:

1. Dismiss Plaintiff's (..... Company) objection to item (Addition of other credit balances to Zakat Base of 2013 to 2015).
2. Dismiss Plaintiff's (..... Company) objection to item (Accounts Payable of 2013 to 2015).

Since Zakat Payer (..... Company) dissatisfied with this Decision; it submitted a statement of appeal summarized as follows:

Zakat Payer objects to the Primary Department's Decision in question, claiming that: As for item (Other Credit Balances), it should be deducted from Zakat Base, as the amount due to the partner after his exit from the company in 2009 was added due to the company's recurring poor results. It was agreed to pay a monthly amount representing the remaining

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amount due to the partner from the company after his exit as a contribution from the company in the form of remuneration and not his share, which was registered in the company's books until payment in the form of rights. As for item (Accounts Payable); the amounts of vendors should not be added to Zakat Base, as the Primary Department upheld ZATCA in adding the balance of accounts payable due to Zakat Payer's failure to provide evidence that these balances have not completed the Zakat Year. In addition, the said amount represented by current accounts for supplying food and other materials for park operation, which fall within the working capital and are offset by the commodity stocks. Moreover, the balance of contractors was before the exit of the previous partner, which the company was also unable to pay due to the same circumstances. Based on the foregoing, Zakat Payer requests that the appealed Decision in question be reversed for the stated Grounds.

Since the Department decided opening of pleadings, ZATCA submitted a Reply dated 01/01/1442 AH, corresponding to 19/08/2020 AD, to Zakat Payer's appeal, a summary of which included that it adheres to its view presented before the Primary Department, and that there is no statement of appeal of Zakat Payer. Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld for the stated Grounds.

On Tuesday, 02/01/1443 AH corresponding to 10/08/2021AD, the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On Wednesday 11/02/1444 AH, corresponding to 07/09/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided to close pleadings and set a date for adjudication.

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: As for Zakat Payer's appeal regarding items (Other Credit Balances) and (Accounts Payable), by reviewing Zakat Payer's and examining the contents of the case file by the Department; and since the judicial ruling is based on elements, most importantly are its reasons; including requests and pleas of litigants, as well as examining and discussing their Grounds to reach a correct ruling in accordance with established judicial principles; Since Grounds for the judgment must include an answer to every request or plea made before the judicial department and ruling thereon may entail a change of opinion on the dispute, otherwise the judgment would be flawed. and since the appealed Decision was found to be devoid of consideration of a fundamental pleading of Zakat Payer, which is the existence of financial difficulties due to Zakat Payer's inability to claim his rights from others; and since such pleading involves objecting to the failure to deduct the amounts due to Zakat Payer in exchange for adding the amounts owed by Zakat Payer, which determines that the Decision is flawed and must be reversed, and by extension, result in non-resolution of dispute as stipulated in its wording of Decision, under which the Primary Department did not extinguish its jurisdiction for adjudicating the subject of the dispute; and in order enable Zakat Payer to have the right to litigate at both degrees; Therefore, the Department satisfies to abolish the Primary Department's Decision on items (Other Credit Balances) and (Accounts Payable) and remand the case

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to the First Department for Determination of Income Tax Violations and Disputes in Jeddah for consideration on their merits in light of requests and pleas presented by Zakat Payer.

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

Decision

1. First: Accept Zakat Payer's (……, C.R No. ……., TIN No. …….) appeal against Decision No. (IZJ-2020-10) delivered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah in Case No. (Z-86-2018) in connection with Zakat Assessment of 2013 to 2015 AD, in form.

Second: On Merits:

2. Abolish the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah on item (Other Credit Balances), and remand the case for consideration on its merits for the Grounds stated herein.
3. Abolish the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah on item (Accounts Payable), and remand the case for consideration on its merits for the Grounds stated herein.

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Keywords
Zakat – Accounts – Audited Financial Statements – Re-evaluation of Financial Position – Failure to Provide Evidence of Re-Issuance of Financial Statements

Abstract

The Appellant (Zakat Payer) filed this case to abolish Decision No. (ISZR-2020-86) delivered by the Primary Department regarding Zakat Assessment of 2013 and 2014 AD, as Zakat Payer's appeal included its objection to the Primary Department's Decision, claiming that ZATCA has made the Assessment based on financial statements that do not reflect the reality and nature of its activity. The Department, regarding ZATCA's Assessment, found that Zakat Payer has failed to provide evidence of the re-issuance of the financial statements and their revision by a licensed auditor. As such, the Department, hereby, ruled to dismiss Zakat payer's appeal.

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on …/…/… AH, corresponding to …/…/… AD by Mr. ....., National ID No. ....., in his capacity as the Owner of the Appellant Institution; against Decision No. (ISZR-2020-86) delivered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh in Case No. (Z-4583-2019) in connection with Zakat Assessment of 2013 and 2014 AD, filed by Zakat Payer against ZATCA. The appealed Decision ruled as follows:

Accept Plaintiff's (..... Institution, C.R No. .....) case in form and dismiss the same on its merits.

Since this Decision was not accepted by Zakat Payer (..... Institution), Zakat Payer filed an appeal brief that included the following, in summary:

Zakat Payer objects to the Primary Department's Decision in question, claiming that ZATCA has adopted financial statements that do not reflect the actual financial position of the institution, as some issues were discovered within the financial and administrative departments, which necessitated a re-evaluation of the financial position and the adoption of adjusted trial balances that reflect the actual financial position. Accordingly, Zakat Payer requests cancellation of ZATCA's Assessment and issuance of an amended one. Based on the foregoing, Zakat Payer requests that the appealed Decision in question be reversed for the stated Grounds.

On Sunday 21/10/1443 AH, corresponding to 22/05/2022 AD, the Department decided to hold a 10-day e-hearing session, in which ZATCA submitted a Reply to Zakat Payer's

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appeal, a summary of which included that it adheres to its view presented before the Primary Department, and that claims raised by Zakat Payer are consistent with the earlier submissions, which ZATCA responded to at that time. ZATCA also clarifies that the Assessment was made based on the results of the financial statements discovered on QAWAEM Platform. In addition, ZATCA clarifies that its Decision came in compliance with the provisions of Article (21.8) and Article (13) of Implementing Regulations for the Collection of Zakat of 1438 AH. Furthermore, ZATCA requests the Department not to any new petitions from Zakat Payer based on Article (186) of Law of Civil Procedure. Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld for the stated Grounds.

On Thursday, 05/02/1444 AH corresponding to 01/09/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: As for Zakat Payer's appeal regarding its objection to the Primary Department's Decision in question, claiming that ZATCA has made the Assessment based on financial statements that do not reflect the reality and nature of its activity, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing the subject of dispute by the Department; and since the basis of Zakat Payer's appeal was that the audited financial statements do not reflect the actual financial position, and that it rectified the same and submitted valid trial balances; and since the trial balances is merely internal drafts for the purpose of preparing the financial statements that do not amount to be used as evidence against the audited financial statements; and since Zakat Payer failed to provide evidence of the re-issuance of the financial statements and their revision by a licensed auditor; and since this Department found that the conclusion reached by the Primary Department was sound and valid; Therefore, the Department satisfies to dismiss Zakat Payer's appeal and uphold the appealed Decision as to conclusions it had in this regard.

Based on the abovementioned Grounds and after deliberation, the Department unanimously decided as follows:

Decision

First: Accept Zakat Payer's (..... Institution, C.R No. ....., TIN No. .....) appeal against Decision No. (ISZR-2020-86) delivered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh in Case No. (Z-4583-2019) in connection with Zakat Assessment of 2013 and 2014 AD, in form.

Second: On Merits:

Dismiss the Appeal filed by Zakat Payer and affirm the Decision taken by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the Grounds and merits mentioned herein.

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Decision No. IR-2022-315
Case No. Z-26309-2020

Keywords
Zakat – Accounts – Addition of the Current Account of the Institution Owner – Non-Completion of Zakat Year – Subject the Amount that Completed the Zakat Year to Zakat

Abstract

Appellant (Zakat Payer) requested cancellation of the Primary Department Decision No. (ISZR-2020-111) with regard to zakat assessment for the years 2013 D and 2014 AD. as Zakat Payer's appeal included its objection to the Primary Department's Decision regarding item (Addition of the current account of the institution owner). The Department found that Zakat Payer claiming that the entire balance added by ZATCA has not completed the Zakat Year was valid. The Department decided to accept Zakat Payer's appeal on item (Addition of the current account of the institution owner).

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

The Department convened to consider the appeal filed on …/…/… AH, corresponding to …/…/… AD by Mr. ....., National ID No. ....., in his capacity as the Owner of the Appellant Institution; against Decision No. (ISZR-2020-111) delivered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh in Case No. (Z-9224-2019) in connection with Zakat Assessment of 2013 and 2014 AD, filed by Zakat Payer against ZATCA. The appealed Decision ruled as follows:
First: Accept Plaintiff's (Mr. ....., National ID No. ....., the Owner of ....., C.R No. .....) case in form.
Second: On Merits:

1. Dismiss Plaintiff's objection to item (Charging Zakat Payer under the financial statements)
2. Dismiss Plaintiff's objection to item (Addition of the current account of the institution owner of 2013 and 2014)
3. Dismiss Plaintiff's objection to item (Non-deduction of expenses of previous years from the retained profits).
4. Establish resolution of dispute on item (Non-deduction of the amount paid).

Since Zakat Payer (..... Institution) dissatisfied with this Decision; it submitted a statement of appeal summarized as follows:
Zakat Payer objects to the Primary Department's Decision in question, claiming that: As for item (Addition of the current account of the institution owner); the condition for an amount to be subjected to Zakat is the completion of the Zakat Year, in accordance with

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Article (4.3) of Implementing Regulations for the Collection of Zakat. With regard to year 2013, the account has a debit and credit activity; hence, ZATCA's addition of the balance of the end of Zakat period violates one of the pillars of Zakat, which is the completion of the Zakat Year. Accordingly, the amount that completed the Zakat Year is (SAR 574,935), and that the credit activity during the year was not used to finance fixed assets. The same applies to year 2014, with the difference of the amount that completed the Zakat Year, which is (SAR 1,624,467). Based on the foregoing, Zakat Payer requests that the appealed Decision in question be reversed for the stated Grounds.

Since the Department decided opening of pleadings, ZATCA submitted a Reply dated 09/08/1442 AH, corresponding to 22/03/2021 AD, to Zakat Payer's appeal, a summary of which included that Zakat Payer submits its Zakat Declaration and requests to be charged on an estimated basis for the absence of financial statements. Upon reviewing Zakat Payer's financial statements by ZATCA, it Reassessed Zakat Payer based on Article (21.8) of Implementing Regulations for the Collection of Zakat of 1438 AH. As for item (Addition of the current account), ZATCA clarifies that, since Zakat Payer is charged on an estimated basis as explained, and since there were budgets, the institution was charged according to the balance of the beginning or the end of Zakat period of the current account item. In addition, Zakat Payer was informed to provide ZATCA with the activity of the current account from the accounting system; however, Zakat Payer submitted only an overall activity (Excel Format). As a result, and based on Paragraph (2) of Section (First) of Article (4), and Paragraph (A) of Section (First) of Article (20) of Implementing Regulations for the Collection of Zakat of 1438 AH; Zakat Payer's objection was rejected. Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that the appealed Decision in question be reversed for the stated Grounds.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: As for Zakat Payer's appeal regarding item (Addition of the current account of the institution owner), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that the entire balance added by ZATCA to the Zakat Base has not completed the Zakat Year, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing the subject of dispute and Zakat Payer's appeal, and examining the contents of the case file by the Department; and since the dispute is related to Documents; and since Zakat Payer has submitted a statement of the current account of the institution owner of 2013 and 2014; and by reviewing this statement, it was found that it was derived from the accounting system; and by following the account activity for years in question, it was found that the balance of the beginning of Zakat period of 2013 amounted to (SAR 18,865,322) and the debit activity amounted to (SAR 19,440,257), which indicates that the amount that completed the Zakat Year is (SAR 574,935). As for year 2014, the Department found that the balance of the beginning of Zakat period amounted to (SAR 19,427,169) and the debit activity amounted to (SAR 17,802,702), which indicates that the amount that completed the Zakat Year is (SAR 1,624,467); and since the Department found that Zakat Payer claiming that the entire balance added by ZATCA has not completed the Zakat Year was valid; Therefore, the Department satisfies to amend the appealed Decision by subjecting the amounts that completed the Zakat Year only to Zakat, as to conclusions reached by this Department.

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In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept Zakat Payer's (...../, C.R No. ....., TIN No. .....) appeal against Decision No. (ISZR-2020-111) delivered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh in Case No. (Z-9224-2019) in connection with Zakat Assessment of 2013 and 2014 AD, in form.

Second: On Merits:

Accept Zakat Payer's appeal on item (Addition of the current account of the institution owner) and amend the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh by subjecting the amounts that completed the Zakat Year only to Zakat, as to conclusions reached by this Department, for the Grounds stated herein.

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Decision No. IR-2022-316
Case No. Z-29371-2020

Keywords
Zakat – Accounts – Projects under Construction – Accounts Payables

Abstract

The Appellant ("Zakat Payer") filed this case to abolish Decision No. (IZJ-2020-128) delivered by the Primary Department regarding Zakat Assessment of 2016, as Zakat Payer's appeal regarding items (Projects under construction of 2016) and (Accounts payable of 2016) included its objection to the Primary Department's Decision regarding the same. The Department found that: As for item (Projects under construction of 2016); ZATCA's procedure was not based on evidence that can be relied upon in establishing that Zakat Payer carried out construction for the purpose of sale. As for item (Accounts payable of 2016); Zakat Payer's funds fall within the Zakat Base whenever they completed a Zakat Year, or it was proven that they were financed for an asset deducted from Zakat Base. The Department decided to accept Zakat Payer's appeal on item (Projects under construction of 2016); and dismiss the same on item (Accounts payable of 2016).

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

The Department convened to consider the appeal filed on …/…/… AH, corresponding to …/…/… AD by Mr. ....., National ID No. ....., in his capacity as the Legal Representative of Zakat Payer by virtue of its AOA, against Decision No. (IZJ-2020-128) delivered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah in Case No. (Z-10427-2019) in connection with Zakat Assessment of 2016, filed by Zakat Payer against ZATCA. The appealed Decision ruled as follows:
First: In form:
Accept Plaintiff's (.....Company, C.R. No. ....., TIN No. .....) case in form for being filed within the period prescribed by Law.
Second: On Merits:
Dismiss Plaintiff's (.....Company, C.R. No. ....., TIN No. .....) objection to item (Projects under construction of 2016), for the Grounds stated herein.
Dismiss Plaintiff's (.....Company, C.R. No. ....., TIN No. .....) objection to item (Accounts payable of 2016), for the Grounds stated herein.
Since Zakat Payer (..... Company) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:
Zakat Payer objects to Primary Department's Decision in question, claiming that: As for item (Projects under construction of 2016); Zakat Payer claims that projects under

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construction consist of four buildings that were built to be headquarters for Zakat Payer, as all of its headquarters were rented, and that the increase in the projects is due to expenses of maintenance, guard salaries, and electrification. In addition, the increase is not that vast, ranging between (SAR 20,000) to (SAR 30,000). Moreover, this increase does not mean an actual projects for third parties. Furthermore, Zakat Payer, since the beginning of its business, did not practice any contracting business for third parties, but rather its main business is to provide accommodation and dry meals to pilgrims. As for item (Accounts payable of 2016); Zakat Payer claims that the accounts payable are considered funds that are not subject to Zakat, as they do not finance any of items deducted from the Zakat Base in accordance with Article (5.3) of Implementing Regulations for the Collection of Zakat. Accordingly, the amount of expenses due and other credit balances should not be added in full, but rather within the limits of deducted amount from the Zakat Base. Based on the foregoing, Zakat Payer requests that the appealed Decision be reversed for the stated Grounds.

The Department decided to open the pleading, where ZATCA submitted a Reply dated 10/10/1442 AH, corresponding to 21/05/2021 AD; to Zakat Payer's appeal, a summary of which included that: As for item (Projects under construction of 2016); ZATCA clarifies that, by referring to the chartered accountant report of in question and to the field examination dated 05/03/1440 AH; Zakat Payer has ceased its activity and is under liquidation, and that all these justifications prove that the activity is not being practiced by Zakat Payer. In addition, Zakat Payer is still disbursing on projects under construction that have not been attributed to Zakat Payer's activity, and they are increasing from one year to another as per the financial statements; thus, ZATCA did not deduct work under progress as it is not within the works related to Zakat Payer's assets, but rather work under progress for third parties, as Zakat Payer's commercial registration and the financial statements stated that the purposes of the Company "Zakat Payer" are (construction and finishing; restaurants; real estate; tourism, travel, and accommodation; and livestock); Accordingly, these works are not specific to Zakat Payer's assets. Furthermore, since ZATCA clarified that Zakat Payer has ceased its activity and is under liquidation, and is still disbursing on works under implementation, and based on Paragraph (2) of Section (Second) of Article (4) and Article (20.3) of Implementing Regulations for the Collection of Zakat issued in 1438 AH, Zakat Payer's objection was dismissed by ZATCA. As for item (Accounts payable of 2016); ZATCA added these amounts to the Tax Base based on Fatwa No. (22665) dated 15/04/1424 AH, and Article (20.3) and Paragraph (5) of Section (First) of Article (4) of Implementing Regulations for the Collection of Zakat issued in 1438 AH. Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that the appealed Decision be upheld for the stated Grounds.

On Sunday, 21/10/1443 AH corresponding to 22/05/2022 AD, the Department decided to hold an online pleading session for 10 days. The period expired without any additional submissions from either party to the appeal.

On Wednesday, 18/02/1444 AH, corresponding to 14/09/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions.

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This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: As for Zakat Payer's appeal regarding item (Projects under construction of 2016); which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that projects under construction consist of four buildings that were built to be headquarters for Zakat Payer and not for investment, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. The Department, having examined the subject of the dispute; and since Zakat Payer stated that the projects under construction consist of four buildings that were built to be headquarters for Zakat Payer, as all of its headquarters were rented; and since Zakat Payer stressed that the increase in disbursement is due to expenses of maintenance, guard salaries, and electrification, and that the increase is not that vast, ranging between (SAR 20,000) to (SAR 30,000), and that such increase cannot be relied upon to determine that they are for projects carried out for third parties; and since the Department found that that no contracting business were carried out for third parties by Zakat Payer; and since ZATCA's procedure was not based on evidence that can be relied upon in establishing that Zakat Payer carried out construction for the purpose of sale; and since the works in question did not constitute a sale; Therefore, the Department satisfies to accept Zakat Payer's appeal on item in question.

As for Zakat Payer's appeal regarding item (Accounts payable of 2016); which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that the accounts payable are considered funds that are not subject to Zakat and must be deducted from the Zakat Base, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. The Department, having examined the subject of the dispute; and since Zakat Payer did not claim in its appeal that the amounts in question completed Zakat Year, but rather was related to the fact that debts financing a deductible item are not subject to Zakat; and since Zakat Payer's funds fall within the Zakat Base whenever they completed Zakat Year, or it was proven that they were financed for an asset deducted from the Zakat Base; and since this does not affect Zakat Payer claiming that the Implementing Regulations for the Collection of Zakat issued was applied after the year in question, as Fatwas applicable during the year in question and ZATCA's Assessment on Zakat Payer require Zakat on sources of Zakat Payer's funds whenever they completed Zakat Year, or it was proven that they were financed for an asset deducted from the Zakat Base; Therefore, the Department satisfies to dismiss Zakat Payer's appeal and uphold the Primary Department's Decision for item in question.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept Zakat Payer's (..... Company, C.R No. ....., TIN No. .....,) appeal against Decision No. (IZJ-2020-128) delivered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah in Case No. (Z-10427-2019) in connection with Zakat Assessment of 2016, in form.

Second: On Merits:

1. Accept Zakat Payer's appeal on item (Projects under construction of 2016); and reverse the Primary Department's Decision for the Grounds stated herein.
2. Dismiss Zakat Payer's appeal on item (Accounts payable of 2016); and uphold the Primary Department's Decision for the Grounds stated herein.

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Keywords

Zakat – Accounts – Assessment after Expiration of Regulatory Period – Failure to Prove the Receipt of Assessment by Zakat Payer

Abstract

The Appellant ("Zakat Payer") filed this case to abolish Decision No. (IFR-2020-256) delivered by the Primary Department regarding Zakat Assessment of 2007 to 2012, as Zakat Payer's appeal included its objection to the Primary Department's Decision in question. The Department found that ZATCA's Assessment of 2007 to 2009 was made after the expiration of the regulatory period set to make amendments to Zakat Payer's Declaration. The Department decided to abolish ZATCA's Assessment of 2007 to 2009 and the Primary Department's Decision.

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

The Department convened to consider the appeal filed on …/…/… AH, corresponding to …/…/… AD by Mr. ....., National ID No. ....., in his capacity as Appellant's Attorney, under POA No. ....., against Decision No. (IFR-2020-256) delivered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh in Case No. (Z-8834-2019) in connection with Zakat Assessment of 2007 to 2012, filed by Zakat Payer against ZATCA. The appealed Decision ruled as follows:

Dismiss Plaintiff's (....., TIN No. .....) case filed against Defendant "ZATCA" for failure of submission of objection to Defendant's Decision within the period prescribed by Law.

Since Zakat Payer dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision in question, claiming that: ZATCA's claim has already been answered; basing on Article (22) of Implementing Regulations for the Collection of Zakat, which stipulates: "Zakat Payer may object to the Authority's Assessment within sixty (60) days from the date of receipt of Assessment Notification." This matter is not related to the Primary Committee, but rather to whether accepting Zakat Payer's objection or not by ZATCA, as Paragraph (5) of the said Article stipulates: "In the event that the objection is not accepted in form, Zakat Payer may file the objection before the Primary Committee." Moreover, the paragraph on which ZATCA's representative based its plea stipulates that the period starts from the date of receipt of Notification by Zakat Payer, not as stated by ZATCA's representative from the

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date of issuance. Accordingly, Zakat Payer adheres that its objection to Assessment was filed within the period prescribed by Law. Based on the foregoing, Zakat Payer requests that the appealed Decision be reversed for the stated Grounds.

On Tuesday .../.../... AH, corresponding to .../.../... AD, the Department decided to hold a 10-day e-hearing session. The period elapsed without any additional submissions from either party to the appeal.

On Wednesday .../.../..., corresponding to .../.../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: As for Zakat Payer's appeal regarding its objection to the Primary Department's Decision in question; Zakat Payer claims invalidity of considering the date of issuance of Assessment as a date for receipt thereof, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing the subject of the dispute by the Department; and since, as established from Facts of the case and Documents attached to the case file; it found that it lacks of proof of Zakat Payer's receipt of Zakat Assessment under receipt documenting the same, and that the purpose of that matter was to rely on the date of issuance of Assessment to start calculating the period; and since the date of issuance of Assessment by ZATCA in this regard does not necessarily mean that Zakat Payer was informed of the Assessment at the same date of issuance; and since ZATCA failed to provide an evidence that could be relied upon in determining that Zakat Payer was informed of the Assessment; and since the Department found that ZATCA's Assessment on Zakat Payer of 2007 to 2009 was made after the expiration of the regulatory period set to make amendments to Zakat Payer's Declaration, which is set at five (5) years from the final date for Zakat Payer to submit Zakat Declaration for each year; Therefore, the Department satisfies to abolish ZATCA's Assessment of 2007 to 2012 and the Primary Department's Decision; and remand the case for consideration on its merits for years from 2010 to 2012.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept Zakat Payer's (Mr. ....., National ID No. ....., TIN No. .....,) appeal against Decision No. (IFR-2020-256) delivered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh in Case No. (Z-8834-2019) in connection with Zakat Assessment of 2007 to 2012, in form.

Second: On Merits:

1. Abolish ZATCA's Assessment of 2007 to 2009; and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh for the Grounds stated herein.
2. Abolish the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh for years from 2010 to 2012; and remand the case for consideration on its merits for the Grounds stated herein.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-321
Case No. Z-28715-2021

Keywords

Zakat – Accounts – Plea of Limitation – Non-Deduction of Dividends – Accounts Payable – Contributions Under Implementation – Notes Payable – Investments – Partners' Current Account – Other Accounts Payable

Abstract

The Appellant (ZATCA/ Zakat Payer) filed this case to abolish Decision No. (ISZR-2020-150) delivered by the Primary Department regarding Zakat Assessment of 1426 to 1434 AH, as Zakat Payer's appeal included its objection to the Primary Department's Decision regarding the following: 1. Item (Limitation of Assessment of 1426 to 1434 AH); 2. Item (Addition of shareholders' accounts payable to Zakat Base); 3. Item (Contributions under implementation); 4. Item (Notes payable); 5. Item (Investments); and 6. Item (Other accounts payable). Zakat Payer's appeal also included its objection to ZATCA's procedure regarding item (Partners' current account). The Department found that: As for item (Limitation of Assessment of 1426 to 1434 AH); ZATCA has no right to make Assessment on years in question, as the basis for calculating Zakat is meet of the condition of absolute ownership, and with the distribution of profits, such condition is dropped accordingly. As for items (Addition of shareholders' accounts payable to Zakat Base) and item (Other accounts payable); these accounts payable were included in the statement of financial position, which indicates that they represent a source of funding that must be added to Zakat Base whenever it completes a Zakat Year or is being used to finance deductible assets. As for item (Contributions under implementation); the projects under implementation are not for sale in their current state; hence, they are not considered trade offers. As for item (Notes payable); they represent a source of funding that must be added to the Zakat Base whenever it completes a Zakat Year. As for item (Investments); the real estates in question were not intended for trade, which indicates that Zakat Payer is entitled to deduct the same from its Zakat Base. As for item (Partners' current account); it was not included in the contested items upon considering the dispute before the Primary Department. The Department decided to accept Zakat Payer's appeal on items: 1. (Limitation of Assessment of 1426 to 1434 AH); 2. (Non-Deduction of dividends from Zakat Base); 3. (Contributions under implementation); and 4. (Investments in real estates); Dismiss Zakat Payer's appeal on items: 1. (Addition of shareholders' accounts payable to Zakat Base); 2. (Notes payable); and 3. (Partners' current account); and Accept ZATCA's appeal on item (Other accounts payable).

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

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Facts:

The Department convened to consider the appeal filed on …/…/… AH, corresponding to …/…/… AD by Mr. ....., National ID No. ....., in his capacity as Appellant's Attorney, under POA No. .....; and the appeal filed on …/…/… AH, corresponding to …/…/… AD by .....; against Decision No. (ISZR-2020-150) delivered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh in Case No. (Z-132-2018) in connection with Zakat Assessment of 1426 to 1434 AH, filed by Zakat Payer against ZATCA. The appealed Decision ruled as follows:

First: Accept Plaintiff's (....., C.R. No. ....) case in form.

Second: On Merits:

1. Dismiss Plaintiff's objection to item (Dividends to investors).
2. Dismiss Plaintiff's objection to item (Shareholders' accounts payable).
3. Dismiss Plaintiff's objection to item (Contributions under implementation).
4. Accept Plaintiff's objection to item (Other accounts payable of 1432, 1433, and 1434 AH).
5. Establish resolution of dispute on item (Accounts payable of 1427 and 1428 AH).
6. Dismiss Plaintiff's objection to item other credit balances (Notes payable) of 1427 AH.
7. Dismiss Plaintiff's objection to item (Investments).

Dissatisfied with that Decision, both parties filed a statement of appeal summarized as follows:

Zakat Payer initially stated in its appeal regarding objection to the Primary Department's Decision by pleading for the limitation of Assessment, as Zakat Payer stresses that ZATCA has no right to amend the Zakat Declaration after the lapse of five (5) years from the final date set for submission of Zakat Declaration. In addition, Zakat Payer's right to plead for limitation may not be disregarded at this stage, even if Zakat Payer did not plead for the same initially. As for item (Non-Deduction of dividends from Zakat Base); Zakat Payer claims that the profits were distributed to shareholders, which indicates that Zakat Payer does not own the amounts; hence, they are no longer under Zakat Payer's disposal, as contributions are credited to their owners and reflected as accounts payable to shareholders. Upon using funds to purchase real estate assets, they are credited to shareholders' accounts payable in the "contributions under implementation" account for the same persons. In addition, all costs and expenses incurred on the real estate or land are recorded in the shareholders' costs account, compared to the contribution sale value and profits or loss of contribution, and then distributed to shareholders during the year; hence, these amounts are profits of shareholders that have already been paid and received from shareholders in the same year without completing the Zakat Year. Accordingly, the Zakat of these amounts falls on the shareholder itself, as they are no longer under Zakat Payer's disposal. Moreover, dividends were also included in the income statement as actual dividends by checks. The payment of these amounts was proved by the cash flow statement, as it shows the cash flows from operational and investment activities and the purpose for which they were used, starting with net profits after deduction of dividends; hence, the chartered accountant who has attested the financial statements and issued an unqualified report according to the accounting standards approved by SOCPA is another evidence of dividends. Furthermore, if these dividends were not actually paid, they would have appeared in the statement of financial position as balances under distribution. As for item (Accounts payable); Zakat Payer claims that the balances of these accounts are not considered funds that are subject to Zakat, as the condition of absolute ownership does not apply thereon, nor are they considered among the available or beneficial sources of funds that are subject to Zakat. According to Fatwa No. (22665) dated 15/04/1424 AH, if the funds were used in trade offers, they would have entered into another Zakat Base that

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has been zakat-paid and its result has appeared in the net profits. As for item (Contributions under implementation); Zakat Payer claims that this account represents the work under progress carried out by Zakat Payer using investors' funds represented in the accounts payable of the contributions' that have been subject to Zakat and are closely associated with. In addition, the established practice is to deduct the debit balances within the partner's share if they are owned by one of the partners, and they are indeed so, as the account payable of the contribution is associated with amounts spent, whether for purchasing the land or works carried thereon in the construction phase. Accordingly, these balances must be deducted in exchange for subjecting the accounts payable to Zakat, which were subjected by ZATCA thereto, as it is consistent with the legal basis. It should also be noted that the matter that constrained Zakat Payer is related to three (3) projects within these contributions, as well as (...) projects established for the purpose of acquisition. In this case, the difference between them must be subject to Sharia. As for item (Notes payable); Zakat Payer claims that notes payable were used to pay part of a building project included in the financial statements of 1426 and 1427 AH in the amount of (SAR 27,600,000), and the account payable of the building project investors as a source of financing was in the amount of (SAR 17,303,500), and the difference to complete the purchase from notes payable is the credit balance of (…….) Islamic Bank, i.e., they are investments outside the Kingdom. This balance is related to the debit balance of the work in progress in the project that was purchased for rental and receipt of proceeds; hence, it is considered an acquisition offer that must be deducted from the Zakat Base. Moreover, the accounts payable of investors financing the project were subject to Zakat within the accounts payable of shareholders. As for item (Investments), Zakat Payer claims that the investments are represented in the purchase of two offices in Dubai with a total amount of (SAR 3,033,855) from ..... Company in Dubai, where an advance payment has been made and the rest is to be paid in installments. These offices were purchased to be Zakat Payer's headquarters in Dubai. ZATCA has subjected their equivalent to Zakat within the accounts payable and other accounts payables. Due to the crisis that occurred in Dubai in 2008, the payment was not made, which caused the offices to be withdrawn. Since this issue remains unresolved; Zakat Payer was unable to receive the offices or the amounts paid. With regard to investments in securities in Dubai represented by subscription shares in (…….) Bank, these investments are managed for the benefit of some investors whose credits have been subject to the Zakat under the Assessment. In addition, the financial statements show that the acquisition of these shares is to get profit, and that the corresponding accounts payables have been subject to Zakat. As for item (Partners' current account); Zakat Payer claims that partners' current accounts have been subject to Zakat based on the rule of "Beginning or End of Zakat Period," whichever is less, and for that matter, if Zakat Payer did not object to this item, its rights however do not lapse by limitation, especially if they will result in the collection of Zakat on funds that are not subject to Zakat. Furthermore, the detailed activity of the current accounts was derived from the books and records, which show that the current accounts of 1428, 1429, and 1434 AH were the only accounts that completed the Zakat Year. Based on the foregoing, Zakat Payer requests that the appealed Decision be reversed on items in question for the stated Grounds.

Since this Decision was not accepted by ZATCA, ZATCA filed an appeal against the contested Decision by virtue of an appeal brief that included the following:

With regard to ZATCA's appeal regarding item (Other accounts payable of 1432, 1433, and 1434 AH); ZATCA stated that the Primary Department has accepted Zakat Payer's objection and stated in the Grounds of its Decision that it found that there was a dispute between the heirs of one of the owners of these lands that lasted for several years and reconciliated in 1434 AH. Such dispute led to the non-completion of the sale of the land,

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resulting in the inability to operate and invest the contribution and make a profit therefrom, which indicates that it did not complete the Zakat Year. ZATCA responds that the Primary Department's Decision is incorrect; as Zakat Payer received the amounts as advance payments from the buyers and became in its possession and under its disposal, meeting the conditions of absolute ownership and the completion of Zakat Year. ZATCA also responds to the Primary Department's statement that there was a dispute between Zakat Payer and some land owners; this dispute did not change the fact that these amounts are at Zakat Payer's disposal as funds from third parties; hence, these amounts are subject to Zakat. Moreover, the completion of the sale process emphasizes the validity of ZATCA's procedures. Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that the appealed Decision be upheld on item in question for the stated Grounds.

On Sunday 21/10/1443 AH, corresponding to 22/05/2022 AD, the Department decided to hold a 10-day e-hearing session, in which ZATCA submitted a Reply to Zakat Payer's appeal, a summary of which included that it adheres to the validity and soundness of its procedure, and that claims raised by Zakat Payer are consistent with the earlier submissions, which ZATCA responded to at that time. As for item (Limitation); ZATCA stated that this item was not subject to objection before ZATCA or the Primary Department; hence, it shall be dismissed based on Article (186) of Law of Civil Procedure. As for item (Dividends to investors); ZATCA clarifies that Zakat Payer's activity represented in real estate management, and this item is represented, as stated by Zakat Payer, by the shareholders' share in the profits of contributions from the funds subject to Zakat; hence, Zakat must be imposed on these profits, as the majority of shareholders are individuals, not legal entities registered with ZATCA, and are subject to Zakat separately. Moreover, ZATCA based its procedure on Article (1.2) and Article (2.1) of Implementing Regulations for the Collection of Zakat of 1438 AH. As for items (Shareholders' accounts payable) and (Contributions under implementation); ZATCA stated that it added these items to Zakat Base due to the completion of Zakat Year, as these items represent balances of funds received from shareholders that are managed by Zakat Payer. In addition, ZATCA based its procedure on Fatwa No. (22665) of 1424 AH and Article (4.5) of Implementing Regulations for the Collection of Zakat of 1438 AH. As for item other credit balances (Notes payable); ZATCA stated that it added the item to Zakat Base due to the completion of Zakat Year, as ZATCA based its procedure on Fatwa No. (22665) of 1424 AH and Article (4.5) of Implementing Regulations for the Collection of Zakat of 1438 AH. As for item (Long-term investments abroad); ZATCA stated that it requested Zakat Payer to submit supporting Documents; however, Zakat Payer failed to do so, which demonstrates the validity and soundness of ZATCA's procedure in accordance with Paragraphs (4/B) and (4/C) of Section (Second) of Article (4) of Implementing Regulations for the Collection of Zakat of 1438 AH. As for item (Partners' current account); ZATCA stated that this item was not subject to objection before ZATCA or the Primary Department; hence, it shall be dismissed based on based on Article (186) of Law of Civil Procedure. Furthermore, ZATCA requests the Department not to accept any new Documents from Zakat Payer that have not been submitted during the examination and objection stages, or any new petitions based on Article (186) of Law of Civil Procedure. Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld for the stated Grounds. Zakat Payer also submitted a Reply to ZATCA's appeal, a summary of which included that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld on item subject of ZATCA's appeal.

On Wednesday .../.../..., corresponding to .../.../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file,

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the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

When reviewing Case Documents and Appeal Brief submitted by the Appellant Company and ZATCA, the Department was satisfied that conditions of appeal hearing have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. Therefore, both appeal requests were accepted in form because they were submitted by persons with legal capacity and within the legally prescribed period.

On Merits: As for Zakat Payer's appeal regarding item (Limitation of Assessment of 1426 to 1434 AH); by reviewing the papers and document included in the Case file by the Department; and since Zakat Declarations of 1426 to 1430 AH were governed by the provisions of Income Tax Law and instructions regulating the collection of Zakat at that time that regulate the process of making and amending the Zakat Assessment; and since these provisions were explicit by stating that ZATCA's right to amend the Zakat Assessment is set by the Law for a period of five (5) years from the final date set for submission of Zakat Declaration; and since Zakat Declaration of Zakat Payer shall be final in the event of a lapse of five (5) years from the final date set for submission thereof, unless ZATCA exercises its right to amend Zakat Declaration within that period, or proves the existence of a tax evasion event by Zakat Payer in submitting an incomplete declaration within ten (10) years from the final date set for submission of Zakat Declaration; and since the stability of the legal and financial positions is an essential goal confirmed by the Law, as it stipulates that ZATCA may not exceed the five-year period for Reassessment except in the case of a tax evasion, provided that it does not exceed ten (10) years to exercise such right; and since Reassessment was made in violation of the Law as stated above, with which the goal of stabilizing the financial and legal positions of Zakat Payers will not be achieved; Therefore, the Department satisfies to decide that ZATCA has no right to make the Zakat Assessment on years in question, to accept Zakat Payer's appeal, and reverse the appealed Decision on items objected by Zakat Payer for years in which this Department decided that ZATCA's Assessment was subject to statute of limitation.

As for Zakat Payer's appeal regarding item (Non-Deduction of dividends from Zakat Base); which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that the profits were distributed to shareholders, which indicates that Zakat Payer does not own the amounts, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing Zakat Payer's appeal and examining the papers and Documents included in the Case file by the Department; and since the basis for calculating Zakat is meet of the two conditions of the completion of Zakat Year and the absolute ownership; and by referring to the Case file and the Documents and defenses contained therein, the Department found that the audited financial statements for years in question confirm that Zakat Payer has distributed the profits in question to shareholders; and since the subject of dispute is not related to Documents; and since the profits in question were no longer under Zakat Payer's disposal, which results in the inadmissibility of obligating Zakat Payer to pay Zakat thereon; and since the aforementioned is not affected by ZATCA's rejection of the deduction of dividends from Zakat Base, claiming that the shareholders are natural persons and are not registered with ZATCA, and by extension, dividends are not subject to Zakat; and since the basis for calculating Zakat is meet of the condition of absolute ownership, and with the distribution of profits, such condition is dropped accordingly, which resulted in transferring those funds to shareholders; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision.

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As for Zakat Payer's appeal regarding item (Addition of shareholders' accounts payable to Zakat Base), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that the account balances are not among the funds that are subject to Zakat, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing Zakat Payer's objection and examining the contents of the Case file by the Department; and since Zakat Payers are held accountable pursuant to their regular accounts and financial statements; and since these accounts payable were included in the statement of financial position, which indicates that they represent a source of funding that must be added to Zakat Base whenever it completes a Zakat year or is being used to finance deductible assets; and since the completion of Zakat Year of these accounts payable is not disputed, thus, they considered a source of funding subjected to Zakat; Therefore, the Department satisfies to dismiss Zakat Payer's appeal and uphold the appealed Decision. As for Zakat Payer's appeal stating that there are assets financed by those amounts that Zakat Payer was unable to sell thereof; and since this motion is a new subject that was not included in its objection initially submitted before ZATCA; Therefore, the Department decides to dismiss this motion.

As for Zakat Payer's appeal regarding item (Contributions under implementation); which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that this account represents the work under progress, which is a type of acquisition offers, not trade, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing Zakat Payer's appeal and examining the contents of the Case file by the Department; and since the projects under implementation are not for sale in their current state; hence, they are not considered trade offers and should not be added to Zakat Base; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision.

As for Zakat Payer's appeal regarding item (Notes payable), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that the difference to complete the purchase from notes payable is related to the credit balance of investments outside the Kingdom, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing Zakat Payer's objection and examining the contents of the Case file by the Department; and since Zakat Payers are held accountable pursuant to their regular accounts and financial statements; and since these notes payable were included in the statement of financial position, which indicates that they represent a source of funding that must be added to Zakat Base whenever it completes a Zakat year or is being used to finance deductible assets; and since the completion of Zakat Year of these notes payable is not disputed, thus, they considered a source of funding subjected to Zakat; Therefore, the Department satisfies to dismiss Zakat Payer's appeal and uphold the appealed Decision.

As for Zakat Payer's appeal regarding item (Investments), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that the real estates were purchased to be its headquarters, and that the accounts payable equivalent to shares were subjected to Zakat, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing Zakat Payer's objection and examining the contents of the Case file by the Department; and since the investments in question consist of real estate and investments in securities; it found that the real estates in question were not intended for trade, which indicates that Zakat Payer is entitled to deduct the same from its Zakat Base. The Department also found that, with regard to

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investments in securities, Zakat Payer failed to provide proof of payment of Zakat for those investments in the country of investment, nor the audited financial statements of the companies in which Zakat Payer invested in a way that Zakat can be calculated on its share and pay the same to ZATCA, which indicates that Zakat Payer is not entitled to deduct the same from its Zakat Base; Therefore, the Department satisfies to amend the appealed Decision by accepting Zakat Payer's appeal regarding the real estates and dismissing the same regarding investments in securities.

As for Zakat Payer's appeal regarding item (Partners' current account), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that that partners' current accounts have been subject to Zakat based on the rule of "Beginning or End of Zakat Period," whichever is less, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing Zakat Payer's objection and examining the contents of the Case file by the Department; it found that this item was not included in the contested items upon considering the dispute before the Primary Department; and since considering such item by the Department as a new motion violates the provisions of Article (186) of Law of Civil Procedures, which stipulates: "New petitions shall not be accepted in an appeal and the court shall dismiss them on its own motion."; Therefore, Department satisfies to dismiss Zakat Payer's appeal on this item.

As for ZATCA's appeal regarding item (Other accounts payable), which includes its objection to the Primary Department's Decision regarding the same, as ZATCA claims that Zakat Payer received the amounts as advance payments from the buyers and became in its possession and under its disposal, meeting the conditions of absolute ownership and the completion of Zakat Year, while Zakat Payer argued that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld. Upon reviewing ZATCA's appeal and examining the contents of the Case file by the Department; and since Zakat Payers are held accountable pursuant to their regular accounts and financial statements; and since these accounts payable were included in the statement of financial position, which indicates that they represent a source of funding that must be added to Zakat Base whenever it completes a Zakat year or is being used to finance deductible assets; and since the completion of Zakat Year of these accounts payable is not disputed, thus, they considered a source of funding subjected to Zakat; and since Zakat Payer may deduct assets that were not offered for sale in their current state or could not be offered due to lawsuits filed against; and since assets in question are represented by projects under implementation, which is a contested item included in Zakat Payer's appeal accepted by this Department; Therefore, the Department satisfies to accept ZATCA's appeal and reverse the appealed Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept Zakat Payer's (..... Company, C.R No. ....., TIN No. .....) appeal and ZATCA's appeal against Decision No. (ISZR-2020-150) delivered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh in Case No. (Z-132-2018) in connection with Zakat Assessment of 1426 to 1434 AH, in form.

Second: On Merits:

1. Accept Zakat Payer's appeal on item (Limitation of Assessment of 1426 to 1434 AH) and reverse the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for the Grounds stated herein.

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2. Accept Zakat Payer's appeal on item (Non-Deduction of dividends from Zakat Base) and reverse the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for the Grounds stated herein.
3. Dismiss Zakat Payer's appeal on item (Addition of shareholders' accounts payable to Zakat Base) and uphold the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for the Grounds stated herein.
4. Accept Zakat Payer's appeal on item (Contributions under implementation) and reverse the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for the Grounds stated herein.
5. Dismiss Zakat Payer's appeal on item (Notes payable) and uphold the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for the Grounds stated herein.
6. As for item (Investments):
   A. Accept Zakat Payer's appeal regarding the real estates and reverse the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for the Grounds stated herein.
   B. Dismiss Zakat Payer's appeal regarding investments in securities and uphold the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for the Grounds stated herein.
7. Dismiss Zakat Payer's appeal on item (Partners' current account) for the Grounds stated herein.
8. Accept ZATCA's appeal on item (Other accounts payable) and reverse the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for the Grounds stated herein.

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

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Decision No. IR-2022-322
Case No. ZW-27608-2020

Keywords
Zakat – Accounts – Sales Difference – Offshore Procurement – Salary and Wage Differences – Contracts with Government Agencies

Abstract

The Appellant (ZATCA/ Zakat Payer) filed this case to abolish Decision No. (IZJ-2020-108) delivered by the Primary Department regarding Zakat Assessment of 2009 to 2013 AD, as Zakat Payer's appeal included its objection to the Primary Department's Decision regarding the following: 1. Item (Sale differences from accounts receivable of 2009); 2. Item (Offshore Procurement of 2010); 3. Item (Salary and wage differences not registered with GOSI of 2011 to 2013); 4. Item (Contracts with Government Agencies of 2011 to 2013); and 5. Item (Related parties of 2009 to 2013). The Department found that: As for item (Sale differences from accounts receivable of 2009); ZATCA's addition of the difference amount between the accounts receivable and sales to Zakat Base as deferred sales is not supported by any accounting principle or physical evidence. As for item (Offshore Procurement of 2010); the presumption of the existence of amounts that are not included in Zakat Payer's Declaration represents the differences of the offshore procurement according to Customs Declaration is an uncertain presumption in the light of the circumstances surrounding the way of calculating and classifying those differences for Zakat Payer upon submitting its Zakat Declaration, due to the addition of the offshore procurement as imports by Zakat Payer. As for item (Salary and wage differences not registered with GOSI of 2011 to 2013); all regular and necessary expenses related to Zakat Payer's activity, whether paid or due, may be deducted if they represent an actual expense supported by Documents or other evidence. As for item (Contracts with Government Agencies of 2011 to 2013); Zakat Payer failed to submit Documents supporting its claim or the purchase orders referred to in its appeal. As for item (Related parties of 2011 to 2013); the amounts stated in the audited financial statements differed from the amounts included in account statement submitted by Zakat Payer. The Department decided to accept Zakat Payer's appeal on items: 1. Item (Sale differences from accounts receivable of 2009); 2. Item (Offshore Procurement of 2010); 3. Item (Salary and wage differences not registered with GOSI of 2011 to 2013); accept ZATCA's appeal on item (Contracts with Government Agencies of 2011 to 2013); and dismiss Zakat Payer's appeal on item (Related parties of 2009 to 2013).

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

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The Department convened to consider the appeal filed on …/…/… AH, corresponding to …/…/… AD by Mr. ....., National ID No. ....., in his capacity as Appellant's Attorney, under POA No. .....; and the appeal filed on …/…/… AH, corresponding to …/…/… AD by .....; against Decision No. (IZJ-2020-108) delivered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah in Case No. (Z-161-2018) in connection with Zakat Assessment of 2009 to 2013 AD, filed by Zakat Payer against ZATCA. The appealed Decision ruled as follows:

First: In from: Accept the Case filed by Plaintiff, C.R. No. : (...) In form.

Second: On Merits:

1. Dismiss Plaintiff's objection to item (Sale differences from accounts receivable of 2009).
2. Dismiss Plaintiff's objection to item (Offshore Procurement of 2010).
3. Dismiss Plaintiff's objection to item (Salary and wage differences not registered with GOSI of 2011 to 2013).
4. Accept Plaintiff's objection to item (Contracts with Government Agencies of 2011 to 2013).
5. Dismiss Plaintiff's objection to item (Related parties of 2009 to 2013).

Dissatisfied with that Decision, both parties filed a statement of appeal summarized as follows:

As for Zakat Payer's appeal against the Primary Department's Decision in question, it included the following: As for item (Sale differences from accounts receivable of 2009); Zakat Payer claims that ZATCA's procedure in considering the debtors' balance as equivalent to sales and then carrying over the difference to net profits is an incorrect Assessment, as sales may be deferred or cash, and the accounts receivable is an accumulative account that may contain balances from previous years and cannot be equivalent to the sales account that expresses deferred sales during the year only. As for item (Offshore Procurement of 2010); Zakat Payer claims that these differences are the result of classifying internal procurement as imports, as the amount charged to the accounts as offshore procurement exceeds the Customs Declaration by an amount of (SAR 942,062). In addition, the operative part of the appealed Decision is also flawed, as the Primary Department stated in its Decision that the company recorded the offshore procurement at a lower value; hence, it had to subject the difference to discretionary profits by (15.5%). As for item (Salary and wage differences not registered with GOSI of 2011 to 2013); Zakat Payer claims that GOSI certificate included only the basic salary and housing allowance, while there are other amounts that are considered wages in accordance with the Labor Law. As for item (Related parties of 2009 to 2013); Zakat Payer claims that these amounts were incurred by the creditor company and represent incorporation expenses and miscellaneous expenses. Based on the foregoing, Zakat Payer requests that the appealed Decision be reversed on items in question for the stated Grounds.

Since this Decision was not accepted by ZATCA, ZATCA filed an appeal against the contested Decision by virtue of an appeal brief that included the following:

As for ZATCA's appeal against the Primary Department's Decision in question regarding item (Contracts with Government Agencies of 2011 to 2013), it stated that the Primary Department's Decision was incorrect by abolishing ZATCA's procedure regarding this item, as government contracts are received by ZATCA through Government Agencies contracting with enterprises via a shared database, as the Primary Department stated in the Grounds of its Decision the following: (Although Plaintiff has submitted a contract follow-up statement showing all contracts entered into with Government Agencies, it did not include the remaining revenues from service agreement and contracts or their numbers, nor the information on which the Assessment was made). ZATCA clarifies that the Primary Department should have requested Zakat Payer to provide a proof of absence

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of these contracts from the Government Agencies contracted with, as ZATCA stated that these contracts were entered into with the Ministry of Health. In addition, ZATCA clarifies that the Primary Department's Decision stating that ZATCA failed to provide clarification for these contracts, was incorrect, as the document submitted by ZATCA were essentially valid and sound. Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that the appealed Decision be reversed on item in question for the stated Grounds.

On Sunday 21/10/1443 AH, corresponding to 22/05/2022 AD, the Department decided to hold a 10-day e-hearing session, in which ZATCA submitted a Reply to Zakat Payer's appeal, a summary of which included that it adheres to the validity and soundness of its procedure, and that claims raised by Zakat Payer are consistent with the earlier submissions, which ZATCA responded to at that time. ZATCA's Reply also included its response regarding the following: As for item (Sale differences from accounts receivable of 2009); ZATCA stated that its procedure came in compliance with the provisions of Article (20.3), Article (5.1), and Article (6.2) of Implementing Regulations for the Collection of Zakat of 1438 AH. As for item (Offshore Procurement of 2010); ZATCA stated that its procedure came in compliance with the provisions of Paragraph (1/A) of Article (5), Article (6.2), and Article (20.3) of Implementing Regulations for the Collection of Zakat of 1438 AH, and based on Circular No. (2030) of 1430 AH. As for item (Salary and wage differences not registered with GOSI of 2011 to 2013); ZATCA stated that its procedure came in compliance with the provisions of Article (5.1) and Article (6.2) of Implementing Regulations for the Collection of Zakat of 1438 AH. As for item (Related parties of 2009 to 2013); ZATCA stated that its procedure came in compliance with the provisions of Article (4.5) of Implementing Regulations for the Collection of Zakat of 1438 AH, and based on Fatwa No. (22665) of 1424 AH and Fatwa No. (2/3077) of 1426 AH. Furthermore, ZATCA requests the Department not to accept any new Documents from Zakat Payer that have not been submitted during the examination and objection stages, or any new petitions based on Article (186) of Law of Civil Procedure. Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld for the stated Grounds. Zakat Payer also submitted a Reply to ZATCA's appeal, a summary of which included that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld on item subject of ZATCA's appeal.

On Tuesday 04/01/1444 AH, corresponding to 02/08/2022 AD, the Department, regarding Zakat Payer's appeal on item (Related parties of 2009 to 2013), has requested Zakat Payer to submit the accounts' activity from its accounting system, including the balance of the beginning of Zakat period for each party and the activity that took place during the year, and the balance of the end of Zakat period, along with a certificate of conformity to clarify which of those accounts have completed the Zakat Year, for accounts of the related parties and for each year in question, within fifteen (15) days from this date. The Department also requested Zakat Payer to provide a detailed clarification of the amounts included in ZATCA's appeal regarding Zakat Payer's contracts with the Ministry of Health for years 2011, 2012, and 2013, stating the amount in the database on which ZATCA based its appeal, and how it processed such amount in Zakat Payer's books, along with the submission of contracts with the Ministry of Health and purchase orders related to the amounts on which ZATCA appeals, within fifteen (15) days from this date.

On Thursday 12/02/1444 AH, corresponding to 08/09/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided to close pleadings and set a date for adjudication.

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Grounds

When reviewing Case Documents and Appeal Brief submitted by the Appellant Company and ZATCA, the Department was satisfied that conditions of appeal hearing have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. Therefore, both appeal requests were accepted in form because they were submitted by persons with legal capacity and within the legally prescribed period.

On Merits: As for Zakat Payer's appeal regarding item (Sale differences from accounts receivable of 2009), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that ZATCA's procedure in considering the debtors' balance as equivalent to sales and then carrying over the difference to net profits is an incorrect Assessment, as sales may be deferred or cash, and the accounts receivable is an accumulative account that may contain balances from previous years and cannot be equivalent to the sales account that expresses deferred sales during the year only, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing Zakat Payer's appeal and examining the contents of the case file by the Department; and since ZATCA's addition of the difference amount between the accounts receivable and sales to Zakat Base as deferred sales is not supported by any accounting principle or physical evidence; and since Zakat Payers are held accountable pursuant to their regular accounts and financial statements, the accounts receivable are implicitly included in the Zakat Base, as they are not deducted from the Zakat Base, which result in invalidity of ZATCA's procedure; and since the aforementioned is not affected by the statement of the Primary Department issuing the Decision in question of a mistake in the Documents submitted, as the dispute between the parties is related to the basis of processing, not the supporting Documents; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision.

As for Zakat Payer's appeal regarding item (Offshore Procurement of 2010), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that these differences are the result of classifying internal procurement as imports, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing Zakat Payer's appeal, examining the contents of the case file, and referring to the appealed Decision on clarification of differences in this item and the conclusion reached therein, by the Department; it found that Zakat Payer has submitted a statement of offshore procurement, internal procurement, and procurement expenses; and since the presumption of the existence of amounts that are not included in Zakat Payer's Declaration represents the differences of the offshore procurement according to Customs Declaration is an uncertain presumption in the light of the circumstances surrounding the way of calculating and classifying those differences for Zakat Payer upon submitting its Zakat Declaration, due to the addition of the offshore procurement as imports by Zakat Payer; and since all regular and necessary expenses required for carrying out the activity may be deducted if they represent an actual expense supported by Documents or other evidence; and since Zakat Payer has submitted Documents supporting its claim on the reasons for these differences, which represent expenses related to Zakat Payer's activity; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision.

As for Zakat Payer's appeal regarding item (Salary and wage differences not registered with GOSI of 2011 to 2013), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that GOSI certificate did not include all salary and wage expenses, while ZATCA argued that it adheres to the validity and

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soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing Zakat Payer's appeal and examining the contents of the case file and Documents included therein by the Department; it found that Zakat Payer has submitted the GOSI certificate for years in question with a settlement of the differences between salaries and wages charged to the accounts and the salaries and wages in accordance with GOSI certificate attached with the charted accountant report; and since all regular and necessary expenses related to the activity, whether paid or due, may be deducted if they represent an actual expense supported by Documents or other evidence; and since Zakat Payer has submitted Documents supporting its claim on the reasons for these differences, which represent expenses related to Zakat Payer's activity; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision.

As for ZATCA's appeal regarding item (Contracts with Government Agencies of 2011 to 2013), which includes its objection to the Primary Department's Decision in question, as ZATCA claims that the government contracts are received by ZATCA through Government Agencies contracting with enterprises via a shared database, while Zakat Payer argued that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld. Upon reviewing ZATCA's appeal and examining the contents of the case file by the Department; and since the subject of dispute is related to Documents; and since Zakat Payer failed to submit Documents supporting its claim, the purchase orders referred to in its appeal, or the accounts' activity from its accounting system, which result in the validity of ZATCA's procedure; Therefore, the Department satisfies to accept ZATCA's appeal and reverse the appealed.

As for Zakat Payer's appeal regarding item (Related parties of 2009 to 2013), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that these amounts were incurred by the creditor company and represent incorporation expenses and miscellaneous expenses, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing Zakat Payer's appeal and examining the contents of the case file by the Department; it found that the amounts stated in the audited financial statements differed from the amounts included in account statement submitted by Zakat Payer; and since Zakat Payer failed provide evidence that can be relied upon to reverse amounts stated indicated in the audited financial statements; Therefore, the Department satisfies to dismiss Zakat Payer's appeal and uphold the appealed.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept Zakat Payer's (..... Company, C.R No. ....., TIN No. .....) appeal and ZATCA's appeal against Decision No. (IZJ-2020-108) delivered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah in Case No. (Z-161-2018) in connection with Zakat Assessment of 2009 to 2013 AD, in form.

Second: On Merits:

1. Accept Zakat Payer's appeal on item (Sale differences from accounts receivable of 2009) and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah for the Grounds stated herein.
2. Accept Zakat Payer's appeal on item (Offshore Procurement of 2010) and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah for the Grounds stated herein.

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3. Accept Zakat Payer's appeal on item (Salary and wage differences not registered with GOSI of 2011 to 2013) and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah for the Grounds stated herein.
4. Accept ZATCA's appeal on item (Contracts with Government Agencies of 2011 to 2013) and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah for the Grounds stated herein.
5. Dismiss Zakat Payer's appeal on item (Related parties of 2011 to 2013) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah for the Grounds stated herein.

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

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Keywords

Zakat – Accounts – Reopen of Assessments – Adjustment of Profit – Deferred Losses – Withholding tax

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IFR-2020-70), regarding zakat assessment for 2009. as Zakat Payer's appeal included its objection to the Primary Department's Decision regarding the following: 1. Item (Withholding Tax); 2. Item (Adjustment of Profit); 3. Item (Non-Application of Circular No. (17249/) dated 24/03/1427 AH related to fixed assets by ZATCA); and 4. Item (Deferred Losses). The Department found that ZATCA's Assessment of 2009 AD was after the lapse of the period prescribed by the Law to amend Zakat Payer's Declaration. The Department also found that: As for item (Withholding Tax); ZATCA's failed to provide Documents that can be relied upon to determine the soundness of its procedure. As for items (Adjustment of Profit), (Non-Application of Circular No. (17249/) dated 24/03/1427 AH related to fixed assets by ZATCA), and (Deferred Losses); they were not considered by the Primary Department despite Zakat Payer's objection thereon and inclusion in the Facts of its Decision, which result in non-resolution of dispute on its merits. The Department decided to abolish ZATCA's Assessment of 2009 AD; and accept Zakat Payer's appeal on items: 1. Item (Withholding Tax); 2. Item (Adjustment of Profit); 3. Item (Non-Application of Circular No. (17249/) dated 24/03/1427 AH related to fixed assets by ZATCA); and 4. Item (Deferred Losses).

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

The Department convened to consider the appeal filed on …/…/… AH, corresponding to …/…/… AD by ....., against Decision No. (IFR-2020-70) delivered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh in Case No. (ZW-10-2018) in connection with Zakat Assessment of 2009 AD, filed by Zakat Payer against ZATCA. The appealed Decision ruled as follows:.

First: 1. Dismiss Plaintiff's (..... Company, TIN No. .....) objection to Defendant's ("ZATCA") Decision regarding Assessment on the Zakat Base of 2009 AD in question.

Second: 2. Dismiss all other objections.

Since Zakat Payer (... Company) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to the Primary Department's Decision in question; claiming that: As for item (Zakat Assessment on the Zakat Base of 2009 AD); the Zakat Year has not been completed and losses have been incurred that do not require the imposition of Zakat thereon. In addition, the company's fiscal year began on 05/08/2008 AD and the commercial registration was issued on 28/07/2008 AD, while the first financial statements were prepared for the period from 05/06/2008 AD to 31/03/2009 AD. Moreover, the capital deposit certificate stated: "The Bank undertakes to reserve the capital until the certificate of company's registration issued by the Commercial Registry Office at the Ministry of Commerce and Industry is provided.". Zakat Payer also claims that the capital of the Zakat Base must complete the Zakat Year pursuant to Circular No. (2940/2/1) dated 14/03/1392 AH and Circular No. (2/8443/2/1) dated 08/08/1392 AH. According to Zakat Accounting Guidelines issued by ZATCA, the first Zakat Year of all Zakat Payers begins from the date of issuance of the commercial registration or the license. In the event that Zakat Payer's activity requires the commercial registration and the license together, the Zakat Year beings from the date of the last of the two have issued. In addition, the deposition of the capital at the Bank on 15/09/2007 AD does not mean the completion of Zakat Year due to the lack of absolute ownership, as the Company cannot dispose of the capital before the issuance of the commercial registration; thus, the condition of absolute ownership is not met. As for item (Adjustment of Profit); Zakat Payer claims that a part of those expenses by which the profit was adjusted is considered a capital expense that was amortized during 2009 based on the Board of Directors' Decision. Also, all expense items by which the profit was adjusted are among the deductible expenses, as they are documented and necessary to carry out the activity that generates income. As for item (Non-Application of Circular No. (17249/) dated 24/03/1427 AH related to fixed assets by ZATCA); Zakat Payer claims that ZATCA failed to apply the said Circular, which resulted in an increase in the Zakat Base regarding the differences of depreciation and net deductible assets. As for item (Deferred Losses); Zakat Payer claims that ZATCA deducted the deferred losses from the Zakat Base at less than their value by an amount of (SAR 25,720,008), which resulted in Zakat differences of (SAR 643,000) as a result of adjusting the accounting profit with the previously objected items. As for item (Withholding Tax); Zakat Payer claims that it objects to the withholding tax for an amount of (SAR 942,040), despite the amount paid to (....., Kingdom of Saudi Arabia), details of which are as follows: 1. Contract No. ..... with ..... Company, a founding partner in ..... Company, for an economic feasibility study to establish ..... Company, in the amount of (US 142,500), equivalent to (SAR 534,375), which was disbursed on three (3) receipts. 2. The second phase of Contract No. ....., in the amount of (US 108,160), equivalent to (SAR 405,398), which was disbursed on one (1) receipt. As for the amount of (SAR 58,465), Zakat Payer was unable to recognize the amount, and ZATCA did not provide details thereto. Based on the foregoing, Zakat Payer requests that the appealed Decision in question be reversed for the stated Grounds.

On Sunday .../.../... AH, corresponding to .../.../... AD, the Department decided to hold a 10-day e-hearing session, in which ZATCA submitted a Reply to Zakat Payer's appeal, a summary of which included that it adheres to its view presented before the Primary Department, and that claims raised by Zakat Payer are consistent with the earlier submissions, which ZATCA responded to at that time. ZATCA's Reply also included its response regarding the following: As for items (Zakat Assessment on the Zakat Base of 2009 AD), (Adjustment of Profit), (Non-Application of Circular No. (17249/) dated 24/03/1427 AH related to fixed assets by ZATCA), and (Deferred Losses); ZATCA adheres to the validity of its procedure. ZATCA also clarifies that the period from 01/04/2008 AD to 31/03/2009 AD was subject to Zakat; as the deposition of capital was proved by virtue of the certificate issued by ..... Bank, which shows that Zakat Payer has deposited an amount of (SAR 100,000,000) as capital for the Company. In addition, Article

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(7) of Articles of Association of the Company confirms the deposition of the capital in the bank's accounts, which indicates that the capital has completed the Zakat Year; hence, it is subject to Zakat. As a result, the fixed assets were deducted from the Zakat Base. Moreover, ZATCA stated that it based its procedure on the provisions of Article (14.2) of Implementing Regulations for the Collection of Zakat of 1438 AH, which stipulates: "The Zakat Year for capital companies begins from the date of deposition of the capital.". Furthermore, by considering that the Primary Department's has established that the capital was deposited in the account for the purpose of establishing the company on 15/09/2007 AD, as stated in the capital deposit certificate, which also indicates that the capital has completed the Zakat Year. Article (20.3) of Implementing Regulations for the Collection of Zakat of 1438 AH stipulates: "The burden of prove of correctness of information in Zakat Payer's Declaration regarding items and any other data rests on Zakat Payer. If Zakat Payer fails to prove correctness of the items in its Declaration, the Authority may disapprove the item whose correctness has not been proven by Zakat Payer or make an Estimated Assessment according to the Authority's opinion based on relevant circumstances and Facts and available information.". As for item (Withholding Tax); ZATCA stated that its procedure came in compliance with regulatory requirement of imposing withholding tax on Zakat Payer pursuant to the provisions of Article (68/A) of Income Tax Law of 1425 AH, which stipulates: "Every resident, whether or not a taxpayer according to this Law, and every permanent establishment of a nonresident in the Kingdom which pays an amount to a nonresident from a source in the Kingdom shall withhold tax from the paid amount ……"; and Article (63) of Implementing regulations of Income Tax Law of 1425 AH, which stipulates: "A non-resident is subject to tax for any amount realized from a source within the Kingdom, and the tax is withheld from the total amount ....." Since the burden of proof rests on Taxpayer pursuant to the provisions of Article (57.3) of Implementing regulations of Income Tax Law, which stipulates: "The burden of proof of correctness of information in the taxpayer's return regarding its revenues, expenses, and any other data, rests on the taxpayer. If a taxpayer fails to prove the correctness of information in its returns, the Department may, in addition to the application of any other statutory penalties, disapprove the expense whose correctness has not been proven by the taxpayer or make an estimated assessment according to the Department's opinion based on relevant circumstances and Facts and available information.". Moreover, by considering that the Primary Department's has established Zakat Payer's failure to submit Documents supporting its claim, and in light of ZATCA's statement herein; ZATCA adheres to the validity and soundness of its procedure in question. Furthermore, ZATCA requests the Department not to accept any new Documents from Zakat Payer that have not been submitted during the examination and objection stages, or any new petitions based on Article (186) of Law of Civil Procedure. Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld for the stated Grounds.

On Monday 26/12/1443 AH, corresponding to 25/07/2022 AD, the Department, having reviewed Zakat Payer's appeal on item (Withholding Tax), which included Zakat Payer's objection to ZATCA's procedure regarding the imposition of a withholding tax on the amount paid to ..... Company; has requested ZATCA to provide prove of its claim that Zakat Payer's contract was entered into with ..... Company, and that the payment was made to its office in Bahrain. The Department also requested ZATCA, regarding Zakat Payer's objection to the withholding tax of (SAR 58,465), which Zakat Payer stated that it was unable to recognize this amount, and since ZATCA included in its Assessment that the amount was paid to..... Company; to provide the document proving that Zakat Payer

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paid the amount on which withholding tax was imposed for a non-resident party. Accordingly, ZATCA submitted a number of Documents.

On Thursday 12/02/1444 AH, corresponding to 08/09/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merit: Since the Department found that the ZATCA's Assessment of 2009 AD on Zakat Payer was made after the lapse of the period prescribed by the Law to amend Zakat Payer's Declaration, which is five (5) years from the final date set for submission of Zakat Declaration by Zakat Payer for each year; and since these rules are established to maintain the stability of transactions and prevent instability of Zakat Payers' positions in case of absence of a timeframe that ensures maintaining their financial positions not jeopardized; and since this matter does not result in releasing Zakat Payer from its legal obligation if it is already concerned with meeting such obligation, but rather represents a procedural issue with relation to ZATCA right to reopen Assessments after the lapse of the period prescribed by the Law; Therefore, the Department satisfies to decide invalidity of ZATCA's procedure for making amendments, collect Zakat form Zakat Payer for year 2009 AD according to its Declaration, and reverse the appealed Decision for the year in question.

As for Zakat Payer's appeal regarding item (Withholding Tax), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that ZATCA's Assessment was made on -amounts were paid and amounts that could not be recognized by Zakat Payer or been notified thereof, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing Zakat Payer's appeal and examining the contents of the case file by the Department; and since the Department has requested ZATCA to submit Documents on which its Assessment on Zakat Payer was based; and since ZATCA failed to submit Documents in its Reply on Zakat Payer's appeal that can be relied upon to determine the soundness of its procedure; Therefore, the Department satisfies to accept Zakat Payer's appeal regarding this amount and abolish ZATCA's Assessment thereon.

As for Zakat Payer's appeal regarding items (Adjustment of Profit), (Non-Application of Circular No. (17249/) dated 24/03/1427 AH related to fixed assets by ZATCA), and (Deferred Losses), which includes its objection to the Primary Department's Decision regarding the same, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing Zakat Payer's appeal regarding the said items, if found that these items were not considered by the Primary Department despite Zakat Payer's objection thereon and inclusion in the Facts of its Decision, which result in non-resolution of dispute on its merits; and since the Primary Department did not extinguish its jurisdiction over the subject of dispute; Therefore, the Department satisfies to remand the case to the First Department for Determination of Income Tax Violations and

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Disputes in Riyadh to consider Zakat Payer's objection to the Zakat Assessment of 2010 to 2013 AD on its merits.

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

Decision

First: Accept Zakat Payer's (..... Company, TIN No. .....) appeal against Decision No. (IFR-2020-70) delivered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh in Case No. (ZW-10-2018) in connection with Zakat Assessment of 2009 AD, in form.

Second: On Merits:

1. Abolish ZATCA's Assessment of 2009 AD, reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, and collect Zakat form Zakat Payer for year 2009 AD according to its Declaration, for the Grounds stated herein.
2. Accept Zakat Payer's appeal on item (Withholding Tax) and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh for the Grounds stated herein.
3. Accept Zakat Payer's appeal on item (Adjustment of Profit), abolish the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, and remand the case for consideration on its merits, for the Grounds stated herein.
4. Accept Zakat Payer's appeal on item (Non-Application of Circular No. (17249/) dated 24/03/1427 AH related to fixed assets by ZATCA), abolish the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, and remand the case for consideration on its merits, for the Grounds stated herein.
5. Accept Zakat Payer's appeal on item (Deferred Losses), abolish the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, and remand the case for consideration on its merits, for the Grounds stated herein.

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

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-324
Case No. ZW-30623-2020

Keywords
Zakat – Accounts – Import Differences – Accounts Payable – Withholding Tax – Deferred Profits – Acceptance of Appeal.

Abstract

The Appellant (Zakat Payer/ ZATCA) filed this case to abolish Decision No. (ISZR-2020-154) delivered by the Primary Department regarding Zakat Assessment of 2007 to 2016 AD, as Zakat Payer's appeal included its objection to the Primary Department's Decision regarding the following: 1. Item (Import Differences); 2. Item (Accounts Payable); 3. Item (Withholding Tax); and 4. Item (Deferred Profits). The Department found that: As for item (Import Differences); Zakat Payer failed to provide evidence supporting its claim regarding the differences in question. As for item (Accounts Payable); the amount of (SAR 1,835,636) has completed the Zakat Year regarding the year 2016 AD, as the amounts claimed by Zakat Payer are a result of the account's overall activity. As for item (Withholding Tax); it was not an item contested before the Primary Department, as Zakat Payer had not previously objected to this item before the Primary Department, and that those amounts were not paid to a main center or a related company, which indicates that the Grounds of the appealed Decision are inconsistent with the Grounds on which ZATCA based its procedure. As for item (Deferred Profits); the amount of (SAR 262,282) has completed the Zakat Year regarding the year 2016 AD from amounts appealed against. The Department decided to abolish ZATCA's Assessment; dismiss Zakat Payer's appeal on items (Import Differences) and (Withholding Tax); accept Zakat Payer's appeal on items (Accounts Payable) and (Deferred Profits); and accept ZATCA's appeal on item (Withholding Tax).

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

The Department convened to consider the appeal filed on …/…/… AH, corresponding to …/…/… AD by Mr. ....., National ID No. ....., in his capacity as the Executive Director of Appellant Company; and the appeal filed on …/…/… AH, corresponding to …/…/… AD by .....; against Decision No. (ISZR-2020-154) delivered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh in Case No. (ZW-2126-2019) in connection with Zakat Assessment of 2007 to 2016 AD, filed by Zakat Payer against ZATCA. The appealed Decision ruled as follows:
First: Accept Plaintiff's (.....Company, C.R. No. ....) case in form.
Second: On Merits:

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1. Dismiss Plaintiff's case on item (Import Differences).
2. As for item (Credit Balances):
   A. Dismiss Plaintiff's case regarding accounts payable.
   B. Establish resolution of dispute regarding advance payments of 2012 AD.
3. Dismiss Plaintiff's case on item (Deferred Profits).
4. Abolish Defendant's procedure on item (Withholding Tax).

Dissatisfied with that Decision, both parties filed a statement of appeal summarized as follows:

As for Zakat Payer's appeal against the Primary Department's Decision in question, it included the following: As for item (Import Differences of 2013 to 2016); Zakat Payer claims that ZATCA added a total amount of (SAR 19,855,868) for years in question to the Zakat Base. This difference is due to the overlap of the financial periods, as goods are released at Customs at the end of December, while items are registered within the activity of procurement or cost for the following year at the time of receipt thereof and implementation of work, in addition to the difference in classification and overlap between internal and offshore procurement as stated in the chartered accountant's certificate and the relevant settlement. Moreover, ZATCA did not acknowledge that all procurement from abroad were not registered in Declarations for years in question. As for item (Accounts Payable of 2012 and 2016); Zakat Payer claims that ZATCA added the value of this item to the Zakat Base at an amount higher than the amount that has completed the Zakat Year regarding years 2012 and 2016 AD. As for item (Withholding Tax); Zakat Payer requests that the fines related to the rate of (5%) pursuant to ZATCA's initiative be abolished, as Zakat Payer paid the withholding tax in the amount of (SAR 298,886) on 24/06/2018 AD. As for item (Deferred Profits of 2010 and 2016); Zakat Payer claims that an amount of (SAR 1,842,131) was added for year 2016, representing the value of settlements for previous years included in the audited financial statements, as they represent wages and bonus expenses for the previous year 2015, which were disbursed in 2016 and then deducted from the deferred profits. Based on the foregoing, Zakat Payer requests that the appealed Decision be reversed on items in question for the stated Grounds.

Since this Decision was not accepted by ZATCA, ZATCA filed an appeal against the contested Decision by virtue of an appeal brief that included the following:

As for ZATCA's appeal against the Primary Department's Decision in question regarding item (Withholding Tax), it stated that the Primary Department's Decision was incorrect by abolishing ZATCA's procedure regarding this item, as the Primary Department stated that: "These amounts were not paid to a main center or a related company; Therefore, the Department satisfies to abolish ZATCA procedure to subject these amounts to withholding tax at a rate of (15%) instead of (5%).". ZATCA clarifies that its procedure to impose a rate of (15%) on these amounts was due to the payment for software licenses, which was clearly indicated in the Assessment sent to Zakat Payer. Accordingly, the Grounds of the appealed Decision are inconsistent with the Grounds on which ZATCA based its procedure, as the amounts paid by the company to non-resident parties are subject to the term "Royalties" referred to in Article (1) of Income Tax Law, and pursuant to Article (68/A) of Income Tax Law and Article (63.1) of Implementing Regulations of Income Tax Law. Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that the appealed Decision be reversed on item in question for the stated Grounds.

On Tuesday 29/06/1443 AH, corresponding to 01/02/2022 AD, the Department decided to hold a 10-day e-hearing session, in which ZATCA submitted a Reply to Zakat Payer's appeal, a summary of which included the following: As for item (Import Differences); ZATCA clarifies that it adheres to the Primary Department's Decision, as it came in compliance with the provisions of Article (20.3) of Implementing Regulations for the

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Collection of Zakat of 1438 AH. As for item (Credit Balances); ZATCA clarifies that it adheres to the Primary Department's Decision, as it came in compliance with the provisions of Article (4.5) and Article (20.3) of Implementing Regulations for the Collection of Zakat of 1438 AH. As for item (Deferred Profits); ZATCA clarifies that it adheres to the Primary Department's Decision, as it came in compliance with the provisions of Article (20.3) of Implementing Regulations for the Collection of Zakat of 1438 AH. Furthermore, ZATCA requests the Department not to accept any new Documents or motions from Zakat Payer based on Article (186) of Law of Civil Procedure. Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld for the stated Grounds. Zakat Payer also submitted a Reply to ZATCA's appeal, a summary of which included that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld on item subject of ZATCA's appeal.

On Tuesday 23/10/1443 AH, corresponding to 24/05/2022 AD, the Department, regarding Zakat Payer's appeal on item (Import Differences of 2013 to 2016), has requested Zakat Payer to submit a report from a chartered accountant explaining the import differences, while matching the imports in Customs clearances with imports registered in Zakat Payer's books and declarations. The Department also requested Zakat Payer, regarding its appeal on item (Withholding Tax), in which Zakat Payer claimed to have paid the withholding tax under the "Exemption of Fines Initiative," to provide a proof of registration in the initiative and ZATCA's acceptance of the same, as well as a proof of payment of the withholding tax in question. within (30) days from that date. However, Zakat Payer did not provide the required Documents.

On Thursday, 12/02/1444 AH corresponding to 08/09/2022 AD, having perused the Parties' submissions regarding appeal and responding to them, having examined papers and Documents contained in case file, the Department established that the case was ready for adjudication and issuance of Decision. Accordingly, the Department decided to close the pleadings and set the case for adjudication.

Grounds

When reviewing Case Documents and Appeal Brief submitted by the Appellant Company and ZATCA, the Department was satisfied that conditions of appeal hearing have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. Therefore, both appeal requests were accepted in form because they were submitted by persons with legal capacity and within the legally prescribed period.

On Merit: Since the Department found that ZATCA's Assessment of 2007 to 2012 AD on Zakat Payer was made after the lapse of the period prescribed by the Law to amend Zakat Payer's Declaration, which is five (5) years from the final date set for submission of Zakat Declaration by Zakat Payer for each year; and since these rules are established to maintain the stability of transactions and prevent instability of Zakat Payers' positions in case of absence of a timeframe that ensures maintaining their financial positions not jeopardized; and since this matter does not result in releasing Zakat Payer from its legal obligation if it is already concerned with meeting such obligation, but rather represents a procedural issue with relation to ZATCA right to reopen Assessments after the lapse of the period prescribed by the Law; Therefore, the Department satisfies to abolish ZATCA's Assessment of 2007 to 2012 AD and reverse the appealed Decision as to conclusions it had in this regard.

As for Zakat Payer's appeal regarding item (Import Differences of 2013 to 2016), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that the addition of differences is due to the overlap of the financial periods and the difference in classification and overlap between internal and offshore procurement

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as stated in the chartered accountant's certificate and the relevant settlement, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Since the subject of dispute is related to Documents; and since Zakat Payer failed to submit Documents supporting its claim regarding the differences in question; and since the Department found that the conclusion reached by the Primary Department was sound and valid; Therefore, the Department satisfies to dismiss Zakat Payer's appeal.

As for Zakat Payer's appeal regarding item (Accounts Payable of 2012 and 2016), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that ZATCA added amounts exceeded the amount that completed the Zakat Year, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing the subject of dispute and examining the contents of the case file by the Department; and since accounts Payable are considered an element of the Zakat Base under the condition that they complete a Zakat year or are being used to finance deductible assets from the Zakat Base; and since the subject of dispute is related to Documents on this item; and by reviewing the Documents submitted, the Department found that the amount of (SAR 1,835,636) has completed the Zakat Year regarding the year 2016 AD; and since the amounts claimed by Zakat Payer are a result of the account's overall activity; Therefore, the Department satisfies to add the amount of (SAR 1,835,636) to the Zakat Base regarding year 2016 AD only from the amount in question.

As for Zakat Payer's appeal regarding item (Withholding Tax), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer requests that the associated fines be abolished due to its payment of the tax and its registration in ZATCA's exemption initiative, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Since Zakat Payer's appeal was not filed against the Primary Department's Decision, but rather was to dismiss the fines that has previously been paid to ZATCA's by leveraging its exemption initiative; and since this motion was not an item contested before the Primary Department; and since Zakat Payer had not previously objected to this item before the Primary Department, which this Department considered a new motion; Therefore, the Department satisfies to disregard this motion.

As for Zakat Payer's appeal regarding item (Deferred Profits of 2016), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that the Documents supporting the conformity of the ledger account with bank's account statements and the partners' distribution Decision were submitted, while Zakat Payer argued that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld. Upon reviewing the subject of dispute and examining the contents of the case file by the Department; and since deferred profits are added to the Zakat Base after deducting the used profits therefrom; and since the subject of dispute is related to Documents; and by reviewing the Documents submitted by Zakat Payer, it found that the amount of (SAR 262,282) has completed the Zakat Year regarding the year 2016 AD from amounts appealed against; Therefore, the Department satisfies to amend the appealed Decision by adding the amount of (SAR 262,282) to the Zakat Base regarding year 2016 AD only from the amount in question.

As for ZATCA's appeal regarding item (Withholding Tax), which includes its objection to the Primary Department's Decision regarding the same, as ZATCA claims that its procedure to impose a rate of (15%) on these amounts was due to the payment for software licenses, which was indicates that the Primary Department's Decision is irrelevant to the reason that led ZATCA to take its Decision to make the Assessment, while Zakat Payer

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argued that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld. Upon reviewing ZATCA's appeal and examining the contents of the case file by the Department; and since the subject of dispute is related to Documents; and since the Facts of the Primary Department's Decision included that ZATCA has subjected the transferred amounts to withholding tax as in exchange for "technical services and software licenses," while the said Decision reached in its conclusion that those amounts were not paid to a main center or a related company, which indicates that the Grounds of the appealed Decision are inconsistent with the Grounds on which ZATCA based its procedure; and since the matter is as stated; and since the appealed Decision failed to address basis of the dispute; Therefore, the Department satisfies to abolish the Primary Department's Decision and remand the case for consideration on its merits regarding the validity of ZATCA's procedure, according to which the amounts in question were subject to withholding tax at a rate of (15%).

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the Appeal filed by Zakat Payer/(... Company), C.R. No. (...), TIN (...), Accept the appeal in form by ZATCA against the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh No. (ISZR-2020-154), issued in case number (ZW-2126-2019), related to zakat assessment for the years 2007 to 2016.

Second: On Merits:

1. Abolish ZATCA's Assessment of 2007 to 2012; and reverse the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh as to conclusions it had in this regard, for the Grounds stated herein.
2. Dismiss Zakat Payer's appeal on item (Import Differences of 2013 to 2016) and uphold the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh for the Grounds stated herein.
3. Accept Zakat Payer's appeal on item (Accounts Payable of 2016) and amend the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, by adding the amount of (SAR 1,835,636) to the Zakat Base of 2016 AD from the amount in question, for the Grounds stated herein.
4. Disregard Zakat Payer's appeal on item (Withholding Tax) for the Grounds stated herein.
5. Accept Zakat Payer's appeal on item (Deferred Profits of 2016) and amend the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, by adding the amount of (SAR 262,282) to the Zakat Base of 2016 AD from the amount in question, for the Grounds stated herein.
6. Accept ZATCA's appeal on item (Withholding Tax), abolish the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, and remand the case for consideration on its merits, for the Grounds stated herein.

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

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Keywords

Zakat – Accounts – Travel Ticket Allowance – Addition of Saudi Partners' Current Account to Zakat Base in the Saudi Side's Share – Late Payment Fine – Vendor Balances – Addition of Notes Payable to Zakat Base for the End of Zakat Period – Addition of SIDF Loan – Submission of a Unified Zakat Declaration

Abstract

The Appellant (Zakat Payer/ ZATCA) filed this case to abolish Decision No. (IZD-2020-37) delivered by the Primary Department regarding Zakat Assessment of 2008 to 2012, as Zakat Payer's appeal included its objection to the Primary Department's Decision regarding the following: 1. Item (Travel ticket allowance); 2. Item (Addition of Saudi partners' current account to Zakat Base in the Saudi side's share); 3. Item (Withholding Tax); 4. Item (Late Payment Fine); 5. Item (Vendor Balances); and 6. Item (Addition of notes payable to Zakat Base for the end of Zakat period). The Department found that: As for item (Travel Ticket Allowance); the balances have not completed the Zakat Year. As for item (Addition of Saudi partners' current account to Zakat Base in the Saudi side's share); the conclusion reached by the Primary Department was sound and valid, as the Department did not find any requirement for correction or further response in light of Zakat Payer's submissions before this Department. As for item (Withholding Tax); ZATCA failed to provide evidence supporting its claim that Zakat Payer paid those amounts to the non-resident party. As for item (Late Payment Fine); the fine is associated with item (Withholding Tax); and since this Department has accepted Zakat Payer's appeal regarding the same, the fine is dismissed accordingly. As for items (Vendor Balances) and with regard to the item (Addition of notes payable to Zakat Base for the period ending on 04/07/2012); the Department did not find any requirement for correction or further response in light of ZATCA's submissions before this Department. As for item (Addition of Saudi partners' current account to Zakat Base in the Saudi side's share of 2011 and 2012) ; As for the year 2011: the Department satisfies to the invalidity of ZATCA's procedure regarding the same. As for the year 2012; since the Assessment was made over a short period that has not completed the Zakat Year; the Department satisfies to the invalidity of ZATCA's procedure regarding the same. As for item (Addition of SIDF Loan in the amount of "SAR 54,275,000" to Zakat Base); the Department did not find any requirement for correction or further response in light of ZATCA's submissions before this Department. As for item (Submission of a Unified Zakat Declaration); the Department did not find any requirement for correction or further response in light of ZATCA's submissions before this Department. The Department decided to accept ZATCA's appeal on item (Addition of SIDF Loan) and dismiss the same on other items; and dismiss Zakat Payer's appeal on item (Addition of Saudi partners' current account to Zakat Base in the Saudi side's share) and accept the same on other items.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

The Department convened to consider the appeal filed on …/…/… AH, corresponding to …/…/… AD by Mr. ....., National ID No. ....., in his capacity as Appellant's Attorney, under POA No. .....; and the appeal filed on 11/10/1441 AH, corresponding to 02/06/2020 AD by .....; against Decision No. (IZD-2020-37) delivered by the First Department for Determination of Income Tax Violations and Disputes in Dammam in Case No. (Z-180-2018) in connection with Zakat Assessment of 2008 to 2012 AD, filed by Zakat Payer against ZATCA. The appealed Decision ruled as follows:

First: In from: Accept Plaintiff's (..... Company, C.R No. .....) case in form.

Second: On Merits:

Dismiss Plaintiff's objection to item "Addition of outstanding travel ticket allowance to the net profit of 2011".

Establish resolution of dispute regarding Plaintiff's objection to item "Consumption Differences" pursuant to Defendant's Memorandum No. 1439/16/33995 filed on 25/11/1439 AH.

Establish resolution of dispute regarding Plaintiff's objection to item "Adjustment to net profit by subjecting the provision of Zakat and income tax twice to the Zakat and income tax in 2011" pursuant to Defendant's Memorandum No. 1439/16/33995 filed on 25/11/1439 AH.

Establish resolution of dispute regarding Plaintiff's objection to item "Adjustment to net profit with the price decline provision for the period ending on 04/07/2012" pursuant to Defendant's Memorandum No. ..... filed on 25/11/1439 AH.

As for item "Addition of travel ticket allowance to Zakat Base":

A. Amend Defendant's Decision by adding an amount of (SAR 68,694) as the balance of travel ticket allowance to Zakat Base of 2010 instead of the amount of (SAR 328,075).
B. Dismiss Plaintiff's objection to the addition of the balance of travel ticket allowance to Zakat Base for years 2009 and 2011, and the period ending on 04/07/2012.

Dismiss Plaintiff's objection to the addition of item "Long-Term Loans" to Zakat Base.

Abolish Defendant's Decision regarding the addition of vendor balances to Zakat Base of 2011 and the period ending on 04/07/2012.

Abolish Defendant's Decision regarding the addition of the balance of notes payable to Zakat Base for the period ending on 04/07/2012.

As for item "Addition of Saudi partners' current account to Zakat Base":

A. Amend Defendant's Decision by adding an amount of (SAR 75,667,065) as Saudi partners' current account to Zakat Base of 2011 instead of the amount of (SAR 83,245,045).
B. Dismiss the addition of Saudi partners' current account to Zakat Base for the period ending on 04/07/2012.

Amend Defendant's Decision by adding SIDF loan in the amount of (SAR 54,275,000) to Zakat Base of 2011 instead of the amount of (SAR 122,840,000).

Establish resolution of dispute regarding Plaintiff's objection to item "Addition of all pre-operational expenses to Zakat Base of 2010" pursuant to Defendant's Memorandum No. 1439/16/33995 filed on 25/11/1439 AH.

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Establish resolution of dispute regarding Plaintiff's objection to item "Addition of spare parts to Zakat Base of 2011 and the period ending on 04/07/2012" pursuant to Defendant's Memorandum No. ..... filed on 25/11/1439 AH.
Establish resolution of dispute regarding Plaintiff's objection to item "Addition of returns on loans to Zakat Base of 2011, and the period ending on 04/07/2012" pursuant to Defendant's Memorandum No. ..... filed on 25/11/1439 AH.
Dismiss Plaintiff's objection to item "Withholding Tax of 2009 and 2010".
Amend Defendant's Decision by calculating the Zakat Base for only one fiscal year instead of calculating for 495 days for the period from 24/08/2008 to 31/12/2009.
Dismiss Plaintiff's objection to item "Late Payment Fine".
Abolish Defendant's Decision regarding item "ZATCA's approval of submission of a Unified Zakat Declaration with the Parent Company (….)".
Dissatisfied with that Decision, both parties filed a statement of appeal summarized as follows:
As for item (Travel Ticket Allowance of 2011), Zakat Payer claims that they are actual expenses representing travel tickets for Company's personnel and are considered part of their salaries and benefits, not an expense charged as a component provision, as they are charged directly to their relevant year pursuant to the accounting accrual principle. Accordingly, Zakat Payer requests that these expenses be deducted from the Zakat Base. As for item (Travel Ticket Allowance of 2009 to 2012), Zakat Payer claims that, according to Paragraph (9) of Section (First) of Article (4) of Implementing Regulations for the Collection of Zakat, the balance of the beginning of Zakat period is collected after deducting the amount used during the year, while the balance used in this item is higher than the balance indicated in the said Article; hence, this item has not completed the Zakat Year. Accordingly, Zakat Payer requests that this item be deducted from the Zakat Base. As for item (Withholding Taxes), Zakat Payer claims that the sources of the amounts subject to withholding tax were not explained before the Department's hearing, as Zakat Payer did not pay amounts that are subjected to Article (68) of Income Tax Law regarding the withholding tax during 2009 and 2010; hence, Zakat Payer did not receive any explanation for the sources of these amounts and the method of calculating and subjecting thereof to the withholding tax, noting that the Assessment was issued without reasons, which is a violation of Article (59.7) of Implementing Regulations of Income Tax Law; hence, the Assessment has failed to satisfy all the requirements stipulated in the Implementing Regulations for making the Assessment. As a result, it is considered formally rejected due to the incompleteness of the details and causes of Assessment. As for item (Late Payment Fine), Zakat Payer claims that, due to a substantive dispute between both parties regarding the items in question, a late payment fine should not be imposed thereon. As for item (Long-Term Loan of 2009), Zakat Payer claims that the loan has not completed the Zakat Year, nor did it finance an amount deducted from Zakat Base, as the loan was received on 26/12/2009. As for item (Addition of Saudi partners' current account to Zakat Base), Zakat Payer claims that the Primary Department did not take into consideration the Saudi side's share, which amounts to (87.5%), and its Decision was not applied to the remaining years or considered the balance of the beginning of Zakat period. Based on the foregoing, Zakat Payer requests that the appealed Decision be reversed on items in question for the stated Grounds.
Since this Decision was not accepted by ZATCA, ZATCA filed an appeal against the contested Decision by virtue of an appeal brief that included the following:
As for ZATCA's appeal against the Primary Department's Decision in question, it included the following: As for item (Addition of the amount of "SAR 68,694" as the balance of travel ticket allowance to Zakat Base of 2010 instead of the amount of "SAR 328,075"), ZATCA clarifies that it addressed the item and added the balance of travel ticket allowance

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that completed the Zakat Year pursuant to Article (4.9) Implementing Regulations for the Collection of Zakat of 1438 AH; however, ZATCA did not review the Documents on which the Primary Department amended ZATCA's procedure. As for item (Vendor Balances to Zakat Base of 2011 and the period ending on 04/07/2012), ZATCA clarifies that added the vendor balances pursuant to Article (4.5) Implementing Regulations for the Collection of Zakat of 1438 AH; however, ZATCA did not review the Documents on which the Primary Department amended ZATCA's procedure. As for item (Addition of notes payable to Zakat Base for the period ending on 04/07/2012), ZATCA clarifies that added the notes payable pursuant to Article (4.5) Implementing Regulations for the Collection of Zakat of 1438 AH; however, ZATCA did not review the Documents on which the Primary Department amended ZATCA's procedure. As for item (Amendment of ZATCA's procedure by adding the amount of "SAR 75,667,065" to Zakat Base of 2011 and dismissing the addition of Saudi partners' current account to Zakat Base for the period ending on 04/07/2012), ZATCA clarifies that added this item pursuant to Article (4.5) Implementing Regulations for the Collection of Zakat of 1438 AH; however, ZATCA did not review the Documents on which the Primary Department amended ZATCA's procedure. As for item (Addition of SIDF loan in the amount of "SAR 54,275,000" to Zakat Base of 2011 instead of the amount of "SAR 122,840,000"), ZATCA clarifies that added this item pursuant to Article (4.5) Implementing Regulations for the Collection of Zakat of 1438 AH. As for item (Calculation of Zakat Base for only one fiscal year instead of calculation for 495 days for the period from 24/08/2008 to 31/12/2009), ZATCA clarifies that Zakat Payer's fiscal year begins from 24/08/2008 to 31/12/2009. Accordingly, this period should be the basis of calculation, which does not conflict with the Grounds of the Primary Department's Decision, as it did not address whether Zakat Payer's fiscal year is long. It also upholds ZATCA's procedure in calculation for the long fiscal year under Appellant Decision No. (1603) of 1437 AH. As for item (Submission of a Unified Zakat Declaration with the Parent Company ….), ZATCA clarifies that its acceptance of the submission of a Unified Zakat Declaration was under the condition that it will be as of 2012. Accordingly, ZATCA adheres to the validity of its procedure for making the Assessment on Zakat Payer separately from the Holding Company from 2008 until the date of full ownership of (100%) of the Holding Company. Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that the appealed Decision be reversed on item in question for the stated Grounds.

On Sunday 21/10/1443 AH, corresponding to 22/05/2022 AD, the Department decided to hold a 10-day e-hearing session, in which ZATCA submitted a Reply to Zakat Payer's appeal, a summary of which included the following: As for item (Addition of outstanding travel ticket allowance to the net profit of 2011), ZATCA clarifies that it adheres to the validity of its procedure, as it came in compliance with the provisions of Article (5.1), Article (6.2), Article (6.6), and Article (20.3) of Implementing Regulations for the Collection of Zakat of 1438 AH. As for item (Addition of the balance of travel ticket allowance to Zakat Base of 2009 to 2012), ZATCA clarifies that it adheres to the validity of its procedure, as it came in compliance with the provisions of Article (4.9) and Article (20.3) of Implementing Regulations for the Collection of Zakat of 1438 AH. As for item (Long-Term Loans of 2009), ZATCA clarifies that it adheres to the validity of its procedure, as it came in compliance with the provisions of Article (4.3) and Article (4.5) of Implementing Regulations for the Collection of Zakat of 1438 AH. As for item (Addition of Saudi partners' current account to Zakat Base), ZATCA clarifies that it adheres to the validity of its procedure, as it came in compliance with the provisions of Article (4.2) and Article (20.3) of Implementing Regulations for the Collection of Zakat of 1438 AH. As for item (Withholding Tax of 2009 and 2010), ZATCA clarifies that it adheres to the validity of its procedure, as it came in compliance with the provisions of Article (68/A) of Income

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Tax Law, and Article (63.1) and Article (57.3) of Implementing Regulations of Income Tax Law. As for item (Late Payment Fine), ZATCA clarifies that it adheres to the validity of its procedure, as it came in compliance with the provisions of Article (77/A) of Income Tax Law, and Paragraph (1/B) Article (68) of Implementing Regulations of Income Tax Law. Furthermore, ZATCA requests the Department not to accept any new Documents from Zakat Payer that have not been submitted during the examination and objection stages, or any new petitions based on Article (186) of Law of Civil Procedure. Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld for the stated Grounds. Zakat Payer also submitted a Reply to ZATCA's appeal, a summary of which included that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld on item subject of ZATCA's appeal.

On Monday, 16/02/1444 AH corresponding to 12/09/2022 AD, the Department, having considered the Parties' submissions, case file and Documents, it established that the case was ready for adjudication and issuance of a Decision.Accordingly, it decided to close the pleadings and set the case for adjudication.

Grounds

When reviewing Case Documents and Appeal Brief submitted by the Appellant Company and ZATCA, the Department was satisfied that conditions of appeal hearing have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. Therefore, both appeal requests were accepted in form because they were submitted by persons with legal capacity and within the legally prescribed period.

On Merit: Since the Department found that the ZATCA's Assessment was made after the lapse of the period prescribed by the Law to amend Zakat Payer's Declaration, which is five (5) years from the final date set for submission of Zakat Declaration by Zakat Payer for each year; and since these rules are established to maintain the stability of transactions and prevent instability of Zakat Payers' positions in case of absence of a timeframe that ensures maintaining their financial positions not jeopardized; and since this matter does not result in releasing Zakat Payer from its legal obligation if it is already concerned with meeting such obligation, but rather represents a procedural issue with relation to ZATCA right to reopen Assessments after the lapse of the period prescribed by the Law; Therefore, the Department satisfies to decide invalidity of ZATCA's procedure for making amendments, abolish ZATCA's Assessment of 2008 to 2010, and reverse the appealed Decision as to conclusions it had in this regard.

As for Zakat Payer's appeal regarding item (Travel Ticket Allowance of 2011), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that this item must be deducted, as it is documented and necessary to carry out the activity that generates Zakatable income, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing Zakat Payer's appeal and examining the contents of the Case file by the Department; and since the dispute lies in ZATCA's addressing of the expense of the outstanding travel ticket as a non-deductible allowance; and by reviewing the Documents attached to the Case file, including ZATCA's Assessment to the year in question, the Department found that ZATCA added that amount to the adjusted net profit to realize the adjusted net profit for Zakat and tax purposes; and since the travel tickets in question are among expenses required from Employer, which makes these expenses among those related to practicing the activity, and by extension, entitles Zakat Payer to deduct thereof to realize the profit that is subjected to Zakat; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision as to conclusions it had in this regard.

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As for Zakat Payer's appeal regarding item (Travel Ticket Allowance of 2009 to 2012), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that the amount of this item has not completed the Zakat Year, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing Zakat Payer's appeal and examining the contents of the Case file by the Department, it found that dispute lies in balances of those allowances in Zakat Payer's financial position statement; and since the account's activity has shown that the balance used during years in question was higher than the balance of the beginning of Zakat period, which indicates that the balance of the beginning of Zakat period had been used in full; hence, it did not complete the Zakat Year, as the balance used during the year was higher than the balance of the beginning of Zakat period; and since ZATCA's instructions stated that the balances of allowances is subjected to Zakat whenever they completed the Zakat Year; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision as to conclusions it had in this regard.

As for Zakat Payer's appeal regarding item (Addition of Saudi partners' current account to Zakat Base in the Saudi side's share of 2011 and for the period ending on 04/07/2012), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that the Primary Department did not take into consideration the Saudi side's share, which amounts to (87.5%), and its Decision was not applied to the remaining years or considered the balance of the beginning of Zakat period, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing Zakat Payer's appeal and examining the contents of the Case file by the Department, it found that: As for the year 2011; the financial statements of 2010 (which represent the opening balances of 2011) indicated that the partners' entire funding was from the Saudi partners, while the cash flow statement of 2011 showed that there were additions to the balance of the beginning of Zakat period without any withdrawal; and since the appealed Decision has ruled to Zakat Payer of amounts that completed the Zakat Year, which was requested by Zakat Payer before the Primary Department; and since this Department found that the conclusion reached by the Primary Department was sound and valid; and since the Department did not find any requirement for correction or further response in light of Zakat Payer's submissions before this Department; Therefore, the Department satisfies to dismiss Zakat Payer's appeal and uphold the appealed Decision as to conclusions it had in this regard. As for the period ending on 04/07/2012; since the Primary Department's Decision that it upheld Zakat Payer claim by dismissing the addition of Saudi partners' current account to Zakat Base for the period ending on 04/07/2012; Therefore, the Department satisfies to disregard Zakat Payer's appeal on item in question.

As for Zakat Payer's appeal regarding item (Withholding Tax), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that the sources of the amounts subject to withholding tax were not clarified, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing Zakat Payer's appeal and submissions, and examining the contents of the Case file by the Department, it found that the service was between the foreign supplier and another company (……), which is a partner in the Company; and since ZATCA failed to provide evidence supporting its claim that Zakat Payer paid those amounts to the non-resident party, which indicates that ZATCA's procedure for imposing a withholding tax on amounts in question was invalid; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision as to conclusions it had in this regard.

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As for Zakat Payer's appeal regarding item (Late Payment Fine), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that the late payment fine, in the event of a substantive disagreement in opinions, shall not be imposed from the date of submission of Zakat Declaration, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing Zakat Payer's appeal and examining the contents of the Case file by the Department; and since the fine in question is associated with item (Withholding Tax); and since this Department has accepted Zakat Payer's appeal regarding the same, the fine is dismissed accordingly; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision as to conclusions it had in this regard.

As for ZATCA's appeal regarding item (Vendor Balances of 2011 and for the period ending on 04/07/2012), which includes its objection to the Primary Department's Decision regarding the same, as ZATCA claims that it did not review the Documents submitted before the Primary Department in order to present its defenses and views regarding thereof, and that its procedure was based on the provisions of Implementing Regulations for the Collection of Zakat of 1438 AH, while Zakat Payer argued that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld. Upon reviewing ZATCA's appeal and examining the contents of the Case file by the Department; and since this Department found that the conclusion reached by the Primary Department was sound and valid, and that the Grounds on which it was based were sufficient to uphold the same; and since the Department did not find any requirement for correction or further response in light of ZATCA's submissions before this Department; Therefore, the Department satisfies to dismiss ZATCA's appeal and uphold the appealed Decision based on its Grounds.

As for ZATCA's appeal regarding item (Addition of notes payable to Zakat Base for the period ending on 04/07/2012), which includes its objection to the Primary Department's Decision regarding the same, as ZATCA claims that it did not review the Documents submitted before the Primary Department in order to present its defenses and views regarding thereof, and that its procedure was based on the provisions of Implementing Regulations for the Collection of Zakat of 1438 AH, while Zakat Payer argued that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld. Upon reviewing ZATCA's appeal and examining the contents of the Case file by the Department; and since this Department found that the conclusion reached by the Primary Department was sound and valid, and that the Grounds on which it was based were sufficient to uphold the same; and since the Department did not find any requirement for correction or further response in light of ZATCA's submissions before this Department; Therefore, the Department satisfies to dismiss ZATCA's appeal and uphold the appealed Decision based on its Grounds.

As for ZATCA's appeal regarding item (Addition of Saudi partners' current account to Zakat Base in the Saudi side's share of 2011 and for the period ending on 04/07/2012), which includes its objection to the Primary Department's Decision regarding the same, as ZATCA claims that Zakat Payer did not submit the required Documents to clarify the account's activity that took place. Accordingly, ZATCA added the lesser amount of the balance at the beginning and end of Zakat period, while Zakat Payer argued that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld. Upon reviewing ZATCA's appeal and examining the contents of the Case file by the Department; it found that: As for the year 2011; since ZATCA failed to prove the existence of a direct connection between the increase in partners' current account and the deducted assets in particular; Therefore, the Department satisfies to the invalidity of ZATCA's procedure regarding the same. As for the year 2012; since the Assessment was made over a short

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period that has not completed the Zakat Year; the Department satisfies to the invalidity of ZATCA's procedure regarding the same, dismiss ZATCA's appeal, and uphold the appealed Decision.

As for ZATCA's appeal regarding item (Addition of SIDF loan in the amount of "SAR 54,275,000" to Zakat Base of 2011 instead of the amount of "SAR 122,840,000"), which includes its objection to the Primary Department's Decision regarding the same, as ZATCA claims that the purpose of the loan is to purchase assets, so it added a balance of the end of Zakat period to the loan and not only the balance that completed the Zakat Year, while Zakat Payer argued that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld. Upon reviewing ZATCA's appeal and the appealed Decision regarding item (Addition of SIDF loan in the amount of "SAR 54,275,000" to Zakat base of 2011), and examining the contents of the Case file by the Department, it found that the name of the item in the appealed Decision is (Addition of SIDF loan in the amount of "SAR 54,275,000" to Zakat Base for the period ending 04/07/2012), while the conclusion reached by the Primary Department referred to the year 2011 in the Grounds and operative part of its Decision, which result in non-resolution of dispute on its merits; and since the Primary Department did not extinguish its jurisdiction over the subject of dispute; Therefore, this Department satisfies to remand the case to the First Department for Determination of Income Tax Violations and Disputes in Dammam to consider this item on its merits.

As for ZATCA's appeal regarding item (Submission of a Unified Zakat Declaration with the Parent Company ….), which includes its objection to the Primary Department's Decision regarding the same, as ZATCA claims that its acceptance of the submission of a Unified Zakat Declaration was under the condition that it will be as of 2012, which proves the validity of its procedure for making the Assessment on Zakat Payer separately from the Holding Company from 2008 until the date of full ownership of (100%) of the Holding Company, while Zakat Payer argued that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld. Upon reviewing ZATCA's appeal and examining the contents of the Case file by the Department; and since this Department found that the conclusion reached by the Primary Department was sound and valid, and that the Grounds on which it was based were sufficient to uphold the same; and since the Department did not find any requirement for correction or further response in light of ZATCA's submissions before this Department; Therefore, the Department satisfies to dismiss ZATCA's appeal and uphold the appealed Decision based on its Grounds.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept Zakat Payer's (..... Company, C.R No. ....., TIN No. .....) appeal and ZATCA's appeal against Decision No. (IZD-2020-37) delivered by the First Department for Determination of Income Tax Violations and Disputes in Dammam in Case No. (Z-180-2018) in connection with Zakat Assessment of 2008 to 2012, in form.

Second: On Merits:

1. Abolish ZATCA's Assessment of 2008 to 2010, and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam as to conclusions it had in this regard, for the Grounds stated herein.
2. Accept Zakat Payer's appeal on item (Travel Ticket Allowance of 2011), and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam for the Grounds stated herein.

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3. Accept Zakat Payer's appeal on item (Travel Ticket Allowance of 2011 and 2012), and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam for the Grounds stated herein.
4. As for item (Addition of Saudi partners' current account to Zakat Base of 2011 and for the period ending on 04/07/2012):
   A. Dismiss Zakat Payer's appeal on this item for the year 2011, and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam for the Grounds stated herein.
   B. Disregard Zakat Payer's appeal on this item for the period ending on 04/07/2012, for the Grounds stated herein.
5. Accept Zakat Payer's appeal on item (Withholding Tax), and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam for the Grounds stated herein.
6. Accept Zakat Payer's appeal on item (Late Payment Fine), and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam for the Grounds stated herein.
7. Dismiss ZATCA's appeal on item (Vendor Balances of 2011 and for the period ending on 04/07/2012), and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam for the Grounds stated herein.
8. Dismiss ZATCA's appeal on item (Addition of notes payable to Zakat Base for the period ending on 04/07/2012), and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam for the Grounds stated herein.
9. Dismiss ZATCA's appeal on item (Addition of Saudi partners' current account to Zakat Base in the Saudi side's share of 2011 and for the period ending on 04/07/2012), and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam for the Grounds stated herein.
10. Accept ZATCA's appeal on item (Addition of SIDF loan in the amount of "SAR 54,275,000" to Zakat Base of 2011 instead of the amount of "SAR 122,840,000"), abolish the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, and remand the case for reconsideration, for the Grounds stated herein.
11. Dismiss ZATCA's appeal on item (Submission of a Unified Zakat Declaration with the Parent Company ….), and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam for the Grounds stated herein.

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Keywords

Zakat – Accounts – Unapproved Rents – Remunerations – Salary Differences – Previous Years Expenses – Deferred Dividends – Material Error in Reserve – Bad Debts – Import Differences

Abstract

The Appellant (Zakat Payer/ ZATCA) filed this case to abolish Decision No. (IZJ-2020-161) delivered by the Primary Department regarding Zakat Assessment of 2014 to 2016 AD, as Zakat Payer's appeal included its objection to the Primary Department's Decision regarding the following: 1. Item (Unapproved Rents); 2. Item (Import Differences); 3. Item (Remunerations); 4. Item (Salary Differences); 5. Item (Previous Years Expenses) 6. Item (Deferred Dividends); and 7. Item (Material Error in Reserve of 2015); while ZATCA's appeal included its objection to the Primary Department's Decision regarding item (Import Differences). The Department found that: As for item (Unapproved Rents); Zakat Payer has submitted the Documents supporting the incurrence of expenses, according to which the Department has deducted the rent expenses to the extent that has been proven by Zakat Payer through Documents. As for item (Import Differences); Zakat Payer has failed to provide this Department a report from a chartered accountant explaining the differences in question, and that the Department did not find any requirement for correction or further response in light of ZATCA's submissions before this Department. As for item (Remunerations); these small remunerations are customarily incurred by companies to motivate their employees. As for item (Salary Differences); Zakat Payer has submitted a report from a chartered accountant explaining the differences in question. As for items (Previous Years Expenses), (Deferred Dividends), and (Material Error in Reserve of 2015); the Primary Department did not consider these items, which result in non-resolution of dispute on its merits. The Department decided to dismiss Zakat Payer's appeal on item (Import Differences) and accept the same on items (Unapproved Rents), (Remunerations), (Salary Differences), (Previous Years Expenses), (Deferred Dividends), (Material Error in Reserve of 2015), and (Bad Debts); and dismiss ZATCA's appeal on item (Import Differences).

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

The Department convened to consider the appeal filed on .../.../... AH, corresponding to .../.../... AD by Mr. ....., National ID No. ....., in his capacity as Appellant's Attorney, under POA No. ....., and the appeal filed on 28/04/1442 AH, corresponding to

13/12/2020 AD by .....; against Decision No. (IZJ-2020-161) delivered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah in Case No. (Z-9301-2019) in connection with Zakat Assessment of 2014 to 2016 AD, filed by Zakat Payer against ZATCA. The appealed Decision ruled as follows:

First: In from: Accept Plaintiff's (..... Company, C.R No. .....) case in form.

Second: On Merits:

1. Dismiss Plaintiff's (..... Company) objection to item (Unapproved Rents of 2014 to 2016).
2. Dismiss Plaintiff's (..... Company) objection to item (Import Differences of 2014), and amend Defendant's Decision by accepting Plaintiff's objection to item "Import Differences" (Fixed price differences against Euro that were processed in other revenues only) in the amount of (SAR 4,481,408) of 2015 and (SAR 5,713,495) of 2016.
3. Dismiss Plaintiff's (..... Company) objection to item (Remunerations of 2014 to 2016).
4. Dismiss Plaintiff's (..... Company) objection to item (Salary Differences of 2014 to 2016).

Dissatisfied with that Decision, both parties filed a statement of appeal summarized as follows:

As for Zakat Payer's appeal against the Primary Department's Decision in question, it included the following: As for item (Unapproved Rents), Zakat Payer claims that all rents are documented and have been submitted to ZATCA and the Primary Department; hence, the conditions for deduction from Zakat Base apply thereon. As for item (Import Differences), Zakat Payer claims that there are reasons for these differences represented by the procurement of fixed assets that were registered by mistake, internal procurement expenses, shipping charges, and price differences. As for item (Remunerations), Zakat Payer claims that remunerations were paid to employees in recognition of their efforts; hence, they are related to realizing income and fall within the deductible expenses. However, the basis that ZATCA relied on for the absence of a list of penalties and remunerations from the Labor Office was not included in Implementing Regulation of Labor Law, as it did not stipulate the necessity of accepting the remunerations paid in conformity with remunerations included in the work regulations. As for item (Salary Differences), Zakat Payer claims that the resulting differences were due to the existence of allowances and remunerations that were not included in GOSI certificate, as the Social Insurance Law prevents the addition of all allowances paid to employees in GOSI certificate. As for items (Previous Years Expenses), (Deferred Dividends), (Material Error in Reserve of 2015), and (Bad Debts), Zakat Payer objects to the failure of the Primary Department to address these items and consider thereof on their merits. Based on the foregoing, Zakat Payer requests that the appealed Decision be reversed on items in question for the stated Grounds.

Since this Decision was not accepted by ZATCA, ZATCA filed an appeal against the contested Decision by virtue of an appeal brief that included the following:

As for ZATCA's appeal against the Primary Department's Decision in question regarding item (Import Differences), it stated that the Primary Department has amended ZATCA's Decision without legal justification or stating its reasons to do so. In addition, the legal Documents on which Zakat Payer based its claim before the Primary Department as mentioned in its Decision, namely Circular No. (2030) dated 15/04/1430 AH and Article (20.3) of Implementing Regulations for the Collection of Zakat, all support ZATCA's Decision. Moreover, by reviewing the Documents included in the case file, it was found that Zakat Payer did not provide evidence of the import difference or that the other revenues stated in its Declaration are related to the differences in the currency of imports.

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Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that the appealed Decision be reversed on item in question for the stated Grounds.

On Sunday 21/10/1443 AH, corresponding to 22/05/2022 AD, the Department decided to hold a 10-day e-hearing session, in which ZATCA submitted a Reply to Zakat Payer's appeal, a summary of which included that it adheres to the validity and soundness of its procedure, and that claims raised by Zakat Payer are consistent with the earlier submissions, which ZATCA responded to at that time. ZATCA's Reply also included its response regarding the following: As for item (Unapproved Rents), ZATCA's Decision came in compliance with the provisions of Paragraph (1/A) of Article (5) and Article (20.3) of Implementing Regulations for the Collection of Zakat of 1438 AH. As for item (Import Differences), ZATCA's Decision came in compliance with Circular No. (2030) of 1430 AH and Article (20.3) of Implementing Regulations for the Collection of Zakat of 1438 AH. As for item (Remunerations), ZATCA's Decision came in compliance with the provisions of Article (20.3) of Implementing Regulations for the Collection of Zakat of 1438 AH. As for item (Salary Differences), ZATCA compared the basic salaries charged to the accounts and included in the trial balances with the salaries included in GOSI certificate, which resulted in rejection of overcharged salaries to those included in GOSI certificate. Furthermore, ZATCA requests the Department not to accept any new Documents from Zakat Payer that have not been submitted during the examination and objection stages, or any new petitions based on Article (186) of Law of Civil Procedure. Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld for the stated Grounds. Zakat Payer also submitted a Reply to ZATCA's appeal, a summary of which included that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld on item subject of ZATCA's appeal.

On Wednesday, 18/02/1444 AH, corresponding to 14/09/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer and ZATCA, the Department found that the conditions for considering appeal were met in form as stipulated by the relevant laws, regulations and Decisions. Therefore, the two appeals are accepted in form due to the fact of being filed by parties having capacities and within the statutory period.

On Merits: As for Zakat Payer's appeal regarding item (Unapproved Rents), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that this item must be deducted, as it is documented and necessary to carry out the activity that generates Zakatable income, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing the subject of dispute by the Department; and since the dispute is related to Documents; and since Zakat Payer has submitted the Documents supporting the incurrence of expenses in the amount of (SAR 235,000) of 2014, the amount of (SAR 335,000) of 2015, and the amount of (SAR 755,000) of 2016; Therefore, the Department satisfies to accept Zakat Payer's appeal and amend the Primary Department's Decision by deducting the rent expenses to the extent that has been proven by Zakat Payer through Documents, in the amount of (SAR 235,000) of 2014, the amount of (SAR 335,000) of 2015, and the amount of (SAR 755,000) of 2016.

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As for Zakat Payer's appeal regarding item (Import Differences), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that the reasons for these differences are due to the existence of procurement of fixed assets that were registered by mistake, internal procurement expenses, shipping charges, and price differences, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing the subject of dispute and Zakat Payer's appeal, and examining the contents of the case file by the Department; and since the dispute is related to Documents; and since Zakat Payer has failed to provide this Department a report from a chartered accountant explaining the differences in question, and by extension, failed to establish its claim regarding the same; and since this Department found that the conclusion reached by the Primary Department was sound and valid; Therefore, the Department satisfies to dismiss Zakat Payer's appeal and uphold the appealed Decision.

As for Zakat Payer's appeal regarding item (Remunerations), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that this item must be deducted, as it is documented and necessary to carry out the activity that generates Zakatable income, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing the subject of dispute and Zakat Payer's appeal, and examining the contents of the Case file by the Department; and since ZATCA argued that Zakat Payer has failed to provide the work regulations for penalties and remunerations approved by the Minister of Labor; the Department found that the amount in question is a small amount considering the volume of Zakat Payer's activity; and since these small remunerations are customarily incurred by companies to motivate their employees; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision as to conclusions it had in this regard.

As for Zakat Payer's appeal regarding item (Salary Differences), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that the resulting differences were due to the existence of allowances and remunerations that were not included in GOSI certificate, as the Social Insurance Law prevents the addition of all allowances paid to employee in GOSI certificate, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing the subject of dispute by the Department; and since the dispute is related to Documents; and since Zakat Payer has submitted a report from a chartered accountant explaining the differences in question, and in conformity with the audited financial statements; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision as to conclusions it had in this regard.

As for Zakat Payer's appeal regarding items (Previous Years Expenses), (Deferred Dividends), (Material Error in Reserve of 2015), and (Bad Debts); Upon reviewing Zakat Payer's appeal on these items and examining the contents of the case file by the Department, it found that Zakat Payer has objected to those items before the Primary Department; and since the Primary Department did not consider those items, which result in non-resolution of dispute on its merits; and since the Primary Department did not extinguish its jurisdiction over the subject of dispute regarding items in question; Therefore, this Department satisfies to remand the case to the First Department for Determination of Income Tax Violations and Disputes in Jeddah to consider items in question on their merits.

As for ZATCA's appeal regarding item (Import Differences), which includes its objection to the Primary Department's Decision regarding the same, as ZATCA claims that the

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Primary Department has amended ZATCA's Decision without legal justification and the legal Documents on which Zakat Payer based its claim support ZATCA's Decision, and that Zakat Payer has failed to provide evidence of the import difference or that the other revenues stated in its Declaration are related to the differences in the currency of imports, while Zakat Payer argued that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld. Upon reviewing the subject of dispute and ZATCA's appeal by the Department, it found that the conclusion reached by the Primary Department was sound and valid, and that the Grounds on which it was based were sufficient to uphold the same; and since the Department did not find any requirement for correction or further response in light of ZATCA's submissions before this Department; Therefore, the Department satisfies to dismiss ZATCA's appeal and uphold the appealed Decision as to conclusions it had in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept Zakat Payer's (..... Company, C.R No. ....., TIN No. .....) appeal and ZATCA's appeal against Decision No. (IZJ-2020-161) delivered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah in Case No. (Z-9301-2019) in connection with Zakat Assessment of 2014 to 2016 AD, in form.

Second: On Merits:

1. Accept Zakat Payer's appeal on item (Unapproved Rents) and amend the Primary Department's Decision by deducting the rent expenses to the extent that has been proven by Zakat Payer through Documents, in the amount of (SAR 235,000) of 2014, the amount of (SAR 335,000) of 2015, and the amount of (SAR 755,000) of 2016, for the Grounds stated herein.
2. Dismiss Zakat Payer's appeal on item (Import Differences) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah for the Grounds stated herein.
3. Accept Zakat Payer's appeal on item (Remunerations) and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah for the Grounds stated herein.
4. Accept Zakat Payer's appeal on item (Salary Differences) and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah for the Grounds stated herein.
5. Accept Zakat Payer's appeal on item (Previous Years Expenses) and remand the case to the First Department for Determination of Income Tax Violations and Disputes in Jeddah for consideration on its merits, for the Grounds stated herein.
6. Accept Zakat Payer's appeal on item (Deferred Dividends) and remand the case to the First Department for Determination of Income Tax Violations and Disputes in Jeddah for consideration on its merits, for the Grounds stated herein.
7. Accept Zakat Payer's appeal on item (Material Error in Reserve of 2015) and remand the case to the First Department for Determination of Income Tax Violations and Disputes in Jeddah for consideration on its merits, for the Grounds stated herein.
8. Accept Zakat Payer's appeal on item (Bad Debts) and remand the case to the First Department for Determination of Income Tax Violations and Disputes in Jeddah for consideration on its merits, for the Grounds stated herein.
9. Dismiss ZATCA's appeal on item (Import Differences) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, for the Grounds stated herein.

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Keywords
Zakat – Accounts – Reopen Assessment – Audited Financial Statements – Uphold of the Appealed Decision

Abstract

The Appellant (Zakat Payer) filed this case to abolish Decision No. (ISZR-2020-115) delivered by the Primary Department regarding Zakat Assessment of 2016 AD, as Zakat Payer's appeal included its objection to the Primary Department's Decision regarding the preparation of budgets, claiming that the errors were the result of ignorance of the procedures, not deliberate. The Department found that Zakat Payer failed to provide evidence of correction of these financial statements after claiming that there were errors included therein, despite the lapse of several years during which many financial lists were issued. Therefore, the Department decides to dismiss Zakat Payer Appeal and uphold the Primary Department Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

The Department convened to consider the appeal filed on …/…/… AH, corresponding to …/…/… AD by Mr. ....., National ID No. ....., in his capacity as the Owner of the Appellant Institution, against Decision No. (ISZR-2020-115) delivered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh in Case No. (Z-3241-2019) in connection with Zakat Assessment of 2016, filed by Zakat Payer against ZATCA. The appealed Decision ruled as follows:

Accept Plaintiff's (Mr. ....., National ID No. ....., the Owner of ....., C.R No. .....) case in form and dismiss the same on its merits.

Since this Decision was not accepted by Zakat Payer (..... Institution), Zakat Payer filed an appeal brief that included the following, in summary:

Zakat Payer objects to the Primary Department's Decision in question, claiming that the errors in preparing the budgets were not deliberate, but rather were the result of ignorance. In addition, Zakat Payer does not dispute with ZATCA to reopen the Assessment based on the financial statements, but rather on the differences that emerged as a result of this procedure. Based on the foregoing, Zakat Payer requests that the appealed Decision in question be reversed for the stated Grounds.

On Sunday 21/10/1443 AH, corresponding to 22/05/2022 AD, the Department decided to hold a 10-day e-hearing session, in which ZATCA submitted a Reply to Zakat Payer's appeal, a summary of which included that it adheres to its view presented before the

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Primary Department, and that claims raised by Zakat Payer are consistent with the earlier submissions, which ZATCA responded to at that time. ZATCA also clarifies that Zakat Payer is held accountable using the estimated method, as ZATCA found that Zakat Payer had financial statements in QAWAEM Platform. Accordingly, ZATCA amended Zakat Payer's Declaration based on data and information contained in the financial statements, which were different from the financial statements that Zakat Payer was held accountable. In addition, by reviewing those financial statements, ZATCA amended Zakat Payer's Declaration pursuant to Paragraph (8/C) of Article (21) and Article (20.3) of Implementing Regulations for the Collection of Zakat of 1438 AH. Furthermore, ZATCA requests the Department not to accept any new Documents from Zakat Payer that have not been submitted during the examination and objection stages, or any new petitions based on Article (186) of Law of Civil Procedure. Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld for the stated Grounds.

On Thursday, 19/02/1444 AH corresponding to 15/09/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: As for Zakat Payer's appeal regarding its objection to the Primary Department's Decision in question; Zakat Payer claims the errors were the result of ignorance of the procedures, not deliberate, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing the subject of dispute and Zakat Payer's appeal, and examining the contents of the case file by the Department; it found that ZATCA's Assessment was based on the financial statements included in QAWAEM Platform, which are financial statements audited by a chartered accountant, and that Zakat Payer's claims regarding the invalidity of some items contained therein are considered unsubstantiated statements with no valid evidence, as Zakat Payer has failed to submit amended audited financial statements supporting its claims; and since the audited financial statements included data that would affect the Zakat Assessment, which supports the validity of ZATCA's procedure in reopening the Assessment, which is not affected by Zakat Payer claiming that the new information is incorrect and exaggerated, as Zakat Payer failed to provide evidence of correction of these financial statements after claiming that there were errors included therein, despite the lapse of several years during which many financial lists were issued; Therefore, the Department satisfies to dismiss Zakat Payer's appeal and uphold the appealed Decision as to conclusions it had in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept Zakat Payer's (..... Institution, C.R No. ....., TIN No. .....) appeal against Decision No. (ISZR-2020-115) delivered by the Second Department for

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Determination of Income Tax Violations and Disputes in Riyadh in Case No. (Z-3241-2019) in connection with Zakat Assessment of 2016 AD, in form.

Second: On Merits:

Dismiss the appeal filed by Zakat payer and uphold the Decision taken by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the Grounds mentioned therein.

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Keywords
Zakat – Accounts – Offshore Procurement – Reversal of the Appealed Decision

Abstract

The Appellant (Zakat Payer) filed this case to abolish Decision No. (IZJ-2020-147) delivered by the Primary Department regarding Zakat Assessment of 2015 to 2017 AD, as Zakat Payer's appeal included its objection to the Primary Department's Decision regarding item (Offshore Procurement). The Department found that Zakat Payer did not request a deduction of expenses of offshore procurement in a separate item of its Declaration, and that the difference between the amount stated in Zakat Payer's Declaration and the amount shown in Customs Declaration is approximately (5%) of its total offshore procurement. The Department decided to accept Zakat Payer's appeal and reverse the Primary Department's Decision.

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

The Department convened to consider the appeal filed on …/…/… AH, corresponding to …/…/… AD by Mr. ....., National ID No. ....., in his capacity as the Appellant Company's Director, against Decision No. (IZJ-2020-147) delivered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah in Case No. (Z-10157-2019) in connection with Zakat Assessment of 2015 to 2017 AD, filed by Zakat Payer against ZATCA. The appealed Decision ruled as follows:

First: In form: Accept Plaintiff's (.....Company, C.R. No. ....., TIN No. .....) case in form for being filed within the period prescribed by Law.

Second: On Merits: Dismiss Plaintiff's (.....Company, C.R. No. ....., TIN No. .....) objection to item (Offshore Procurement of 2017), for the Grounds stated in the Decision.

Since Zakat Payer (... Company) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to the Primary Department's Decision in question, claiming that: As for item (Offshore Procurement); the procurement was registered at an amount greater than the amount included in Customs Declaration, as the procurement includes customs duties and expenses. As for item (Vendors); the balances of the vendors appearing in the approved financial statements have been fully added to items of Zakat Base despite Zakat Payer's commitment of payment with these vendors, and that there are no loans, but rather commercial transactions. Based on the foregoing, Zakat Payer requests that the appealed Decision in question be reversed for the stated Grounds.

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Since the Department decided opening of pleadings, ZATCA submitted a Reply dated 08/08/1442 AH, corresponding to 21/03/2021 AD, to Zakat Payer's appeal, a summary of which included that upon comparing the imports listed in Zakat Payer's books and those contained in Customs Declarations, ZATCA found that the imports declared in Zakat Payer's Declaration are greater than the imports contained in Customs Declaration. Accordingly, ZATCA added the difference to the adjusted net profit based on Circular No. (2030) of 1430 AH. Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld for the stated Grounds.

On Sunday, 21/10/1443 AH corresponding to 22/05/2022 AD, the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On Monday, 23/02/1444 AH corresponding to 19/09/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: As for Zakat Payer's appeal regarding item (Offshore Procurement), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that the procurement was registered at an amount greater than the amount included in Customs Declaration, as the procurement includes customs duties and expenses, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing the subject of dispute and Zakat Payer's appeal, and examining the contents of the case file by the Department, it found that Zakat Payer did not request a deduction of expenses of offshore procurement in a separate item of its Declaration, such as expenses of customs duties, clearance, and shipping; and since the difference between the amount stated in Zakat Payer's Declaration and the amount shown in Customs Declaration is approximately (5%) of its total offshore procurement, which leads this Department to the conclusion that these Grounds exclude the possibility that this difference is due to undisclosed offshore procurement; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision as to conclusions it had in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept Zakat Payer's (..... Company, C.R No. ....., TIN No. .....) appeal against Decision No. (IZJ-2020-147) delivered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah in Case No. (Z-10157-2019) in connection with Zakat Assessment of 2015 to 2017 AD, in form.

Second: On Merits:

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Accept Zakat Payer's appeal on item (Offshore Procurement) and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah for the Grounds stated herein.

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Decision No. IR-2022-372
Case No. Z-29101-2020

Keywords
Zakat – Accounts – Vendors and Relevant Parties – Import Differences – Retained Profits – Acceptance of Zakat Payer Appeal

Abstract

The Appellant (Zakat Payer/ ZATCA) filed this case to abolish Decision No. (IZJ-2020-149) delivered by the Primary Department regarding Zakat Assessment of 2015 AD, as Zakat Payer's appeal included its objection to the Primary Department's Decision regarding item (Vendors and Relevant Parties), while ZATCA's appeal included its objection to the Primary Department's Decision regarding items (Import Differences), (Additional Capital), and (Retained Profits). The Department found that: As for item (Vendors and Relevant Parties); the amount of (SAR 39,719) of vendors and the amount of (SAR 380,238) of relevant parties, have completed the Zakat Year. As for items (Import Differences), (Additional Capital), and (Retained Profits); the Department did not find any requirement for correction or further response in light of ZATCA's submissions before this Department. The Department decided to accept Zakat Payer's appeal on item (Vendors and Relevant Parties) and dismiss ZATCA's appeal on items (Import Differences), (Additional Capital), and (Retained Profits).

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

The Department convened to consider the appeal filed on …/…/… AH, corresponding to …/…/… AD by Mr. ....., National ID No. ....., in his capacity as the Owner of the Appellant Institution, and the appeal filed on 17/04/1442 AH, corresponding to 02/12/2020 AD by .....; against Decision No. (ISZR-2020-115) delivered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah in Case No. (Z-8901-2019) in connection with Zakat Assessment of 2015 AD, filed by Zakat Payer against ZATCA. The appealed Decision ruled as follows:

First: In from: Accept Plaintiff's (..... Institution, C.R No. .....) case in form.

Second: On Merits:

1. Accept Plaintiff's (..... Institution) objection to item (Import Differences).
2. Accept Plaintiff's (..... Institution) objection to item (Additional Capital).
3. Accept Plaintiff's (..... Institution) objection to item (Retained Profits).
4. Dismiss Plaintiff's (..... Institution) objection to item (Vendors and Relevant Parties).

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Dissatisfied with that Decision, both parties filed a statement of appeal summarized as follows:

As for Zakat Payer's appeal against the Primary Department's Decision in question regarding item (Vendors and Relevant Parties); Zakat Payer claims that the that the balance of (SAR 783,096) has been paid in full during 2015 and that the balance of the end of Zakat period has not completed the Zakat Year, and therefore the taxpayer requests the reversal of the Decision of the adjudication department in the items subject of the appeal for the above reasons. Based on the foregoing, Zakat Payer requests that the appealed Decision be reversed on item in question for the stated Grounds.

Since this Decision was not accepted by ZATCA, ZATCA filed an appeal against the contested Decision by virtue of an appeal brief that included the following:

As for ZATCA's appeal against the Primary Department's Decision in question, it included the following: As for item (Import Differences), ZATCA stated that it compared the imports charged to Zakat Payer's Declaration with the imports included in Customs Declaration of 2015, and processed the difference resulting from such comparison pursuant to Paragraph (10) of Section (First) of Article (13) of Implementing Regulations for the Collection of Zakat and Circular No. (2030) of 1430 AH. In addition, ZATCA stated that the Primary Department accepted the import differences as an import expense, while Zakat Payer acknowledged during the pleading that the import difference was due to a mistake in listing some internal procurement within the offshore procurement. Moreover, the shipping charges were not included in either Zakat Payer's Declaration or the financial statements. It is also illogical that the import expenses of (SAR 566,518) are greater than the value of the offshore procurement, which amounted to (SAR 419,290). Furthermore, ZATCA stated that it was unable to review the Documents, and that Zakat Payer did not submit an extract from the accounting system for internal and offshore procurement. ZATCA also requests the Department not to accept any new Documents that have not been submitted to ZATCA during the Assessment and objection stages. As for item (Additional Capital), ZATCA stated that the source of the increase in capital is one of equity elements, as there were withdrawals during the year from the retained profits in the amount of (SAR 8,366,992), which is the source of the additional fund in the amount of (SAR 2,635,348), as it is consistent with the activity of cash flows from financing activities. Accordingly, and pursuant to Paragraph (1) of Section (First) of Article (4) of Implementing Regulations for the Collection of Zakat, ZATCA appeal against the Primary Department's Decision on item in question. As for item (Retained Profits), ZATCA stated that the Primary Department based its Decision regarding this item on the statement of the retained profits' activity and bills of exchange. These Documents were not previously submitted to ZATCA by Zakat Payer. Accordingly, ZATCA argues not to accept the new Documents. In addition, ZATCA stated that it was unable to review these Documents to examine or present its views regarding thereof, which is a violation of Article (29) of Tax Dispute and Violation Committee Procedures. Based on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that the appealed Decision be reversed on items in question for the stated Grounds.

Since the Department decided opening of pleadings, ZATCA submitted a Reply dated 08/08/1442 AH, corresponding to 21/03/2021 AD, to Zakat Payer's appeal, a summary of which included that it adheres to the validity and soundness of its procedure. ZATCA Reply also included item (Vendors and Relevant Parties), as ZATCA stated that it compared the balance of this item at the beginning or end of Zakat period and added, whichever is less, to Zakat Base, considering that this balance has completed the Zakat Year, with the financial statements and their notes, due to Zakat Payer's failure to submit the activity of these items in order to determine the balance that completed the Zakat Year pursuant to Article (4.5) of Implementing Regulations for the Collection of Zakat. Based

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on the foregoing, ZATCA adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld for the stated Grounds. Zakat Payer also submitted a Reply to ZATCA's appeal, a summary of which included that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld on items subject of ZATCA's appeal.

On Sunday, 21/10/1443 AH corresponding to 22/05/2022 AD, the Department decided to hold an online pleading session for 10 days. The period expired without any additional submissions from either party to the appeal.

On Monday, 23/02/1444 AH corresponding to 12/09/2022 AD, the Department, having considered the Parties' submissions, case file and Documents, it established that the case was ready for adjudication and issuance of a Decision.Accordingly, it decided to close the pleadings and set the case for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer and ZATCA, the Department found that the conditions for considering appeal were met in form as stipulated by the relevant laws, regulations and Decisions. Therefore, the two appeals are accepted in form due to the fact of being filed by parties having capacities and within the statutory period.

On Merits: As for Zakat Payer's appeal regarding item (Vendors and Relevant Parties), which includes its objection to the Primary Department's Decision regarding the same, as Zakat Payer claims that the entire balance of the item has not completed the Zakat Year, while ZATCA argued that it adheres to the validity and soundness of its procedure and requests that Zakat Payer's appeal be dismissed and the appealed Decision be upheld. Upon reviewing Zakat Payer's appeal and examining the contents of the case file by the Department, and by reviewing the Documents submitted by Zakat Payer, which are the statements extracted from the accounting system that contain the detailed activity of balances of vendors and relevant parties, and the charted accountant's report stating that the amount paid during the year to vendors is (SAR 743,377) and the amount paid to relevant parties is (SAR 1,325,997); and since the basis for an amount to be subjected to Zakat is the completion of the Zakat Year or its usage in financing a deductible asset form Zakat Base; and since this Department found, according to the Documents submitted by Zakat Payer, that the amount of (SAR 39,719) of vendors and the amount of (SAR 380,238) of relevant parties, have completed the Zakat Year; Therefore, the Department satisfies to accept Zakat Payer's appeal and reverse the appealed Decision as to conclusions it had in this regard.

As for ZATCA's appeal regarding item (Import Differences), which includes its objection to the Primary Department's Decision regarding the same, as ZATCA claims that the Primary Department accepted the import differences as an import expense, despite that Zakat Payer has acknowledged during the pleading that the import difference was due to a mistake in listing some internal procurement within the offshore procurement, and that the shipping charges were not included in either Zakat Payer's Declaration or the financial statements, while Zakat Payer argued that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld. Upon reviewing ZATCA's appeal and examining the contents of the case file by the Department; and since the dispute is related to Documents; and since Zakat Payer has provide evidence of the differences in question; and since this Department found that the conclusion reached by the Primary Department was sound and valid; and since the Department did not find any requirement for correction or further response in light of ZATCA's submissions before this Department; Therefore, the Department satisfies to dismiss ZATCA's appeal and uphold the appealed Decision as to conclusions it had in this regard.

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As for ZATCA's appeal regarding item (Additional Capital), which includes its objection to the Primary Department's Decision regarding the same, as ZATCA claims that the source of the increase in capital is one of equity elements, due to withdrawals that took place during the year from the retained profits that represent the source of the additional fund, which is consistent with the activity of cash flows from financing activities, while Zakat Payer argued that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld. Upon reviewing ZATCA's appeal and examining the contents of the case file by the Department, and by reviewing the copies of the financial statements included by ZATCA in its appeal, the Department found that the additional capital represents a cash flow from abroad and that its source was not one of equity elements and did not complete the Zakat Year for the year in question; and since this Department found that the conclusion reached by the Primary Department was sound and valid; and since the Department did not find any requirement for correction or further response in light of ZATCA's submissions before this Department; Therefore, the Department satisfies to dismiss ZATCA's appeal and uphold the appealed Decision as to conclusions it had in this regard.

As for ZATCA's appeal regarding item (Retained Profits), which includes its objection to the Primary Department's Decision regarding the same, as ZATCA claims that the Primary Department based its Decision on Documents that were not previously submitted to ZATCA by Zakat Payer, and that it was unable to review these Documents to examine or present its views regarding thereof, while Zakat Payer argued that it requests that ZATCA's appeal be dismissed and the appealed Decision be upheld. Upon reviewing ZATCA's appeal and examining the contents of the case file by the Department; and since the dispute is related to Documents; and since this Department found that the conclusion reached by the Primary Department was sound and valid; and since the Department did not find any requirement for correction or further response in light of ZATCA's submissions before this Department; Therefore, the Department satisfies to dismiss ZATCA's appeal and uphold the appealed Decision as to conclusions it had in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept Zakat Payer's (..... Company, C.R No. ....., TIN No. .....) appeal and ZATCA's appeal against Decision No. (IZJ-2020-149) delivered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah in Case No. (Z-8901-2019) in connection with Zakat Assessment of 2015 AD, in form.

Second: On Merits:

1. Accept Zakat Payer's appeal on item (Vendors and Relevant Parties) and reverse the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, for the Grounds stated herein.
2. Dismiss ZATCA's appeal on item (Import Differences) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, for the Grounds stated herein.
3. Dismiss ZATCA's appeal on item (Additional Capital) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, for the Grounds stated herein.
4. Dismiss ZATCA's appeal on item (Retained Profits) and uphold the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, for the Grounds stated herein.

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

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Keywords
Zakat – Accounts - Determination of Zakat Base - Endorsement of the Primary Decision

Abstract

The Appellant (ZATCA) instituted this case to cancel the primary Decision No. (IFR-2021-48) regarding the zakat assessment for the year 1440 AH. ZATCA's appeal is based on its objection to the primary Decision under appeal, as it was found that the Department did not observe any Grounds for reconsideration or commentary in light of the evidence presented by ZATCA before this Department. As a result, ZATCA's appeal is rejected, and the Department's Decision is upheld.

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

At its headquarters in Riyadh, to consider the appeal submitted on ... /.. /...., corresponding to .. /../.. By ZATCA against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh No. (IFR-2021-48), issued in case No. (Z-11541-2020), regarding the zakat assessment for the year 1440 AH, filed by the Zakat Payer against ZATCA. The primary Decision stated the following:
Abolish the Defendant's action/ ZATCA against Plaintiff/ (...) TIN..... regarding zakat assessment under dispute.
Since the aforementioned Decision was not accepted by the Appellant (ZATCA), it presented a statement of appeal to the Department, summarized as follows:
ZATCA objects to the Department's Decision under appeal, claiming that it determined the Zakat base on an estimated basis according to the data provided by the Zakat Payer. Accordingly, ZATCA exercised the powers granted to it under the available authorities in determining working capital and profits based on paragraph (8) of Article (13) of Implementing Regulations for Zakat Collection. Given the Plaintiff's burden of proof, the judgment should not exceed their request. Additionally, the Zakat Payer does not qualify as a small zakat payer, having approximately (56) employees, as outlined in paragraph (2) of Article (13) of Implementing Regulations for Zakat Collection. Therefore, ZATCA seeks that its appeal be accepted and the Department's Decision be overturned for the aforementioned Grounds.
When the Department decided to open the pleadings, the Zakat Payer submitted a memorandum of reply dated 04/11/1442 AH corresponding to 16/06/2021 AD, summarizing the Zakat Payer's request of the dismissal of ZATCA's appeal and stating that ZATCA's claim in its appeal that it has (56) employees is incorrect, asserting that the

correct number is only (15) employees. Therefore, the Zakat Payer requests dismissal of ZATCA's appeal and upholding the Primary Department's Decision for the aforementioned Grounds.

The Department, after reviewing the appeal memorandum and the responses, and after examining the Documents and papers contained in the case file, decided that the case was ready for determination and the issuance of a ruling on its merits on Tuesday, 12/01/1444 AH corresponding to 09/08/2022. Accordingly, the Department decided to close the pleadings and reserve the case for a final Decision.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by ZATCA, the Department found that the formal requirements for appeal hearing have been met as stipulated by the relevant laws, regulations and Decisions. Therefore, the appeal is accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, ZATCA's appeal is based on its objection to the Decision of the Department under appeal, claiming that it determined the Zakat base on an estimated basis according to the data provided by the Zakat Payer. Accordingly, ZATCA exercised the powers granted to it in determining working capital and profits, while the Zakat Payer argued that it requests the dismissal of ZATCA's appeal and the upholding the primary Decision. Having carefully considered the matter in dispute, and upon reviewing ZATCA's appeal and examining the case file, this Department found that the result reached by the Primary Department was correct. The Department did not observe any Grounds for reconsideration or commentary in light of the evidence presented by ZATCA. Consequently, the Department concludes that ZATCA's appeal should be rejected and the Primary Department, along with its Grounds, should be upheld.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form by the Appellant/ ZATCA against the Decision of the First Department for Determination of Income Tax Violations and Disputes No. (IFR-2021-48), issued in case number (Z-11541-2020), related to zakat assessment for the year 1440 AH.

Second: On Merits:

ZATCA's appeal is rejected and the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh is upheld, in accordance with the reasons and justifications stated in this Decision.

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

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Keywords
Zakat – Accounts – Request for Reconsideration – Short-Term Loans – Cost of Goods Sold –Awarding Appeal

Abstract

The Appellant (Zakat Payer) requests the annulment of the Decision of the Primary Department No. (IR-2021-40) regarding zakat assessment for the years 2006 to 2012. The Zakat Payer's appeal specifically concerns (Short-Term Loans) and (Cost of Goods Sold) items. The Department, regarding (Short-Term Loans) item, determined that the lunar year had not elapsed for the loans from 2009 to 2012, as they were repaid before the year's end. The Zakat Payer, regarding (Cost of Goods Sold) item, argued that it submitted amended declarations where the cost of goods sold is consistent with their financial statements. Furthermore, ZATCA did not provide any justification for disregarding the figures presented in the Zakat Payer's amended declarations. Accordingly, the Department decided to abolish ZATCA's assessment Decision and accept the Zakat Payer's appeal concerning (Short-Term Loans) and (Cost of Goods Sold) items.

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

To consider the appeal presented on .. /../... corresponding to .. ../.. by (...) company Against the Decision of the First Appellate Department for Income Tax Violations and Disputes No. (IR-2021-40), issued in case number (Z-1508-2018), in relation to zakat assessment for the years 2006 to 2012, filed by the Appellant against ZATCA. As the Petitioner, (... Company), did not accept this Decision, it filed a petition with this Department, summarized as follows:

The taxpayer objects to the Decision under appeal, claiming that, pursuant to Article (200) of Law of Civil Procedures, it obtained crucial evidence for the case which they were unable to present before the judgment. The Zakat Payer, concerning (Short-Term Loans) item, claims it obtained the loan movements along with the relevant ledger pages for these loans, which the appellate department refused to consider due to the non-submission of this movement. The Zakat Payer, concerning (Short-Term Loans) item, claims that the lunar year had not elapsed for this item. Concerning the (Cost of Goods) item, the discrepancy is due to the reclassification of excess insurance and losses from damaged goods among other direct costs reported in note (13) of the audited financial statements. The Zakat Payer also emphasizes that it was not given sufficient opportunity to present

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its viewpoint. Therefore, the Zakat Payer requests the overturning of the Decision under appeal for the aforementioned Grounds.

The Department, after reviewing the Zakat Payer's plea concerning Short-Term Loans, Short-Term Loans from Partners, and Cost of Goods Sold items, and after examining the case file, and based on Article (200) of the Law of Civil Procedures, and due to the inability to review the Zakat Payer's conclusive Documents at the time of the case hearing, and after examining the contents of those Documents, concluded to accept the Zakat Payer's appeal in form. Consequently, the Department decided to open a period for written pleading on these items for 10 days of the date thereof. The panel requested to allow ZATCA to review the Documents submitted by the Zakat Payer regarding those items. In response to the Zakat Payer's claim of being denied the opportunity to present their viewpoint, ZATCA asserts that this right was initially afforded to the Zakat Payer before it and the Primary and Appellate Departments, which enabled the Zakat Payer to present its viewpoint and raise all its defenses. ZATCA also emphasizes that Article (200) of the Law of Civil Procedures, which the Zakat Payer relied upon in its request, is not applicable to its case. The Documents attached by the Zakat Payer are the same as those presented to the Department that issued the Decision under appeal. Additionally, in tax disputes, it is not conceivable to have new Documents that the Zakat Payer could not present during the dispute, as tax disputes are based on financial statements and Documents that substantiate those statements before filing declarations. Therefore, ZATCA maintains the validity and correctness of its procedures and requests the dismissal of the Zakat Payer's appeal and upholding the Decision under appeal for the aforementioned reasons.

On Sunday, 06/11/1443 AH corresponding to 05/06/2022 AD, the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On Thursday, 19/02/1444 AH corresponding to 15/09/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Whereas, by reviewing Case Documents and statement of appeal submitted by the Zakat Payer, the Appellate Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes appeal request acceptable in form for submission by a person of legal capacity, and within the period prescribed by law for its conduct.

As for the merits of case, the Department found that ZATCA's assessment for the period from 25/06/2006 to 2008was conducted after the legally prescribed period for making amendments to the Zakat Payer's declaration, which is five years from the deadline for submitting the same per year. These rules are established to ensure the stability of transactions and to avoid leaving zakat payers in a state of uncertainty without a defined period that would ensure their financial positions are not destabilized. This does not absolve the Zakat Payer of the religious obligation if they are indeed liable for it; however, it affects the procedural aspect related to ZATCA's right to reopen assessments after the expiration of the legally prescribed period. Therefore, the Department concludes that ZATCA's action in making those amendments was incorrect, leading to its Decision to annul ZATCA's assessment for the period from 25/06/2006 AD to 2008, accept the Zakat Payer's declaration in this regard, and annul the Appellate Department's Decision No. (IR-2021-40) related to those items.

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Regarding the Zakat Payer's appeal concerning (Short-Term Loans for the years 2009 to 2012) item, the Zakat Payer's appeal is against the department's Decision on this item. The Zakat Payer claims to have obtained the loan movements along with the relevant ledger pages, which were not accepted by the Department due to the lack of presentation of these movements. ZATCA, on the other hand, maintains the validity and correctness of its procedures and requests the dismissal of the Zakat Payer's appeal and the upholding of the Decision under appeal. After reviewing the Documents submitted by the Zakat Payer, it was found that the short-term loans for the years 2009 to 2012 did not complete the lunar year as they were repaid before the year was complete. Therefore, the Department concludes to accept the Zakat Payer's appeal and annul the Appellate Department's Decision No. (IR-2021-40) with regard to this matter.

Regarding the Zakat Payer's appeal concerning (Cost of Goods Sold for the years 2009 to 2012) item, the Zakat Payer's appeal is against the department's Decision on this item. The Zakat Payer claims that the discrepancy is due to the reclassification of excess insurance and losses from damaged goods among other direct costs reported. ZATCA, on the other hand, maintains the validity and correctness of its procedures and requests the dismissal of the Zakat Payer's appeal and the upholding of the Decision under appeal. It was found, after reviewing the request and examining the case file, that the dispute between ZATCA and Zakat Payer revolves around ZATCA's addition of the difference between the figures in the Zakat Payer's financial statements for the disputed years and those in its declarations for those years to the Zakat base. The Zakat Payer argued that it submitted amended declarations in which the cost of goods sold aligns with its financial statements. ZATCA did not provide justification for disregarding the figures in the Zakat Payer's amended declarations. Therefore, the Decision is to account for the cost of goods sold according to the figures in the Zakat Payer's financial statements and to annul the Appellate Department's Decision No. (IR-2021-40) concerning this matter.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form presented by the Zakat Payer/ (...) company, TIN No. (...) against the Decision of the First Appellate Department for Income Tax Violations and Disputes No. (IR-2021-40), issued in case number (Z-1508-2018), related to zakat assessment for the years 2006 to 2012.

Second: On Merits:

1. Abolish ZATCA's assessment for the period from 25/06/2006 to 2008, accept the Zakat Payer's declaration for that period, and cancel Decision of the First Appellate Department for Income Tax Violations and Disputes regarding the outcome for that period, in accordance with the reasons and Grounds outlined in this Decision.
2. Accept the Zakat Payer's appeal in relation to (Short-Term Loans for the years 2009 to 2012) item and cancel Decision of the First Appellate Department for Income Tax Violations and Disputes regarding the outcome for that period, in accordance with the reasons and Grounds outlined in this Decision.
3. Accept the Zakat Payer's appeal in relation to (Cost of Goods Sold for the years 2009 to 2011) item and cancel Decision of the First Appellate Department for Income Tax Violations and Disputes regarding the outcome for that period, in accordance with the reasons and Grounds outlined in this Decision.

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Keywords
Zakat – Estimated Assessment – Affirmation of the Primary Decision

Abstract

The Appellant (ZATCA) requests to annul the primary request No. (ITR-2021-675) regarding zakat assessment for 1439 AH. The Zakat Payer's appeal focuses on the primary Decision under appeal. The Department found no Grounds for reconsideration or further comment based on ZATCA's submissions. Therefore, ZATCA's appeal is rejected and the Department's Decision is upheld.

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

To consider the appeal filed on .. /.. /...., corresponding to .. /../.. By ZATCA against the Decision of the Third Department for Determination of Income Tax Violations and Disputes in Riyadh No. (ITR-2021-675), issued in case No. (Z-2489-2020), regarding the zakat assessment for the year 1439 AH, filed by the Zakat Payer against ZATCA. The primary Decision stated the following:

Accept the Plaintiff's/ (.....) objection National ID No. ..., to the Defendant's/ ZATCA Decision in form and amend the Defendant's Decision in accordance with the reasons stated in the Decision.

Since the aforementioned Decision was not accepted by the Appellant (ZATCA), it presented a statement of appeal to the Department, summarized as follows:

ZATCA objects to the Department's Decision under appeal, claiming that it conducted the Zakat assessment on the Zakat Payer based on estimates, in accordance with paragraph (6) of Article (13) of the Implementing Regulations for Zakat Collection issued in 1438 AH, and based on the Zakat Payer's entries in the Zakat declaration. Additionally, the Zakat Payer did not open a separate file for the company nor did it submit audited financial statements that correspond to the financial period in dispute. Therefore, ZATCA requests the acceptance of its appeal and the annulment of the primary Decision for the aforementioned reasons.

When the Department decided to open the pleadings, the Zakat Payer submitted a memorandum of reply dated 29/07/1443 AH corresponding to 02/03/2022 AD, summarizing the Zakat Payer's request of the dismissal of ZATCA's appeal, stating that it had paid the full amount of Zakat and submitted all the audited financial statements corresponding to the disputed financial period. Therefore, the Zakat Payer requests the

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dismissal of ZATCA's appeal and affirmation of the primary Decision for the aforementioned reasons.

On Thursday 19/02/1444 AH corresponding to 15/09/2022 AD, upon reviewing appeal notes and replies thereto, examining all papers and Documents contained in Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision on its merits. Accordingly, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by ZATCA, the Department found that the formal requirements for appeal hearing have been met as stipulated by the relevant laws, regulations and Decisions. Therefore, the appeal is accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, ZATCA's appeal centers on objecting to the Department's Decision under appeal, claiming that the Zakat assessment was made based on estimates under the authorities granted to it pursuant to the Implementing Regulations for Zakat Collection. After reviewing ZATCA's appeal and examining the case file, this Department has determined that the outcome reached by the Primary Department is correct. The reasons provided in the original Decision are sufficient to uphold it, and the Department finds no Grounds for reconsideration or further comment based on ZATCA's submissions. Therefore, this Department concludes that the Decision made by the Primary Department should be affirmed regarding this matter.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form by the Appellant/ ZATCA against the Decision of the Third Department for Determination of Income Tax Violations and Disputes No. (ITR-2021-675), issued in case number (Z-2489-2020), related to zakat assessment for the year 1439 AH.

Second: On Merits:

ZATCA's appeal is rejected and the Decision of the Third Department for Determination of Income Tax Violations and Disputes in Riyadh is upheld, in accordance with the reasons and justifications stated in this Decision.

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

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Keywords
Zakat – Accounts – Addition of Distributed Profits – Appeal Rejection – Affirmation of Decision

Abstract

The Appellant (Zakat Payer) is requesting the cancellation of the primary Decision. The Plaintiff presented a statement of appeal objecting to the Decision of the Committee for Determination, which rejected the Zakat Payer's appeal and affirmed the initial Decision to add the distributed profits that have completed a lunar year to the Zakat base. The Appellant claims to have filed an objection to the company's Zakat assessment for the year 1437 AH, while ZATCA requests the dismissal of the appeal in form based on the aforementioned Grounds. The Department found no Grounds for reconsideration or further comment based on both parties' submissions. Therefore, the Zakat Payer's appeal is rejected and the Appellate Department's Decision is upheld.

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts:

To consider the appeal presented on: .../.. by (...) company Against Tax Appeal Committee's Decision No. (1852) of the year 1439 AH, concerning zakat assessment for the years 1996 to 2002, in the case filed by the Appellant against ZATCA. The Tax Appeal Committee's Decision ruled as follows:

First: In from: Accept the appeal submitted by (...) company against the Decision No. (5) of 1436 AH of the First Primary Zakat and Tax Objection Committee in Dammam in form.

Second: On Merits:

Reject the Zakat Payer's appeal and affirm the initial Decision to include the distributed profits that have completed a lunar year in the Zakat Payer's zakat base for the years 1996 to 2002.

Since this Decision was not accepted by Zakat Payer (.... company), he submitted a statement of appeal, which contained the following:

The Zakat Payer objects to the Decision of the Appeals Committee, arguing that the company is entitled to expect to be assessed on a Gregorian calendar year basis for all items comprising the zakat base. The Zakat Payer argues that ZATCA's application of the lunar calendar to some items but not others are discriminatory, inconsistent with consistency of treatment and the stability of the relationship between ZATCA and Zakat Payer, which does not allow the Zakat Payer to establish a stable and consistent

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relationship with third parties, including partners. Therefore, the Zakat Payer requests the annulment of the Tax Appeal Committee's Decision for the aforementioned Grounds.
Having presented the statement of claim to Defendant, it responded with a memorandum, summarized as follows: ZATCA requests the dismissal of the case in form, as the Zakat Payer has a pending case concerning the same dispute before the Administrative Court of Appeals in Dammam, which has not yet issued a ruling. Consequently, the Zakat Payer submitted its appeal to this Department after filing with the Administrative Court of Appeal in Dammam and before a judgment was issued therein. ZATCA requests that the appeal be dismissed in form for the aforementioned Grounds pursuant to Royal Order No. (26040) dated 21/04/1441 AH.
On Wednesday, 28/09/2022, The First Department for Determination of Income Tax Violations and Disputes was held via video conferencing in accordance with remote litigation procedures, based on item (2) of Article (15) of Tax Disputes and Violations Committee Procedures promulgated by Royal Order No. 26040 of 21/04/1441 AH. Having reviewed the appeal and examined the Case file, and upon due deliberation, the Appellate Department decided to close the pleadings and reserve the Case for judgment.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.
In form, the Department, upon careful examination of the dispute, reviewing the Zakat Payer's appeal, and examining the contents of the case file, and based on the fact that the Department found no Grounds for reconsideration or further comment based on both parties' submissions, concludes to uphold the Decision No. (1852) of (1439 AH) of Tax Appeal Committee and endorses it based on its stated reasons.
In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal filed by the Zakat Payer/ (...) Company, CR (.....), TIN (....), in form Against the Decision No. (1852) of 1439 AH of Tax Appeal Committee regarding the zakat assessment for the years 1996 to 2022.
Second: On Merits:
Reject the Zakat Payer's appeal and affirm the Decision No. (1852) of 1439 AH of Tax Appeal Committee, in accordance with the Grounds and considerations outlined in this Decision,
which is deemed final pursuant to Articles (47) and (48) of Tax Disputes and Violations Committee Procedures.
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Decision No. IR-2022-37
Case No. Z-31506-2020

Keywords

Zakat – Accounts – Deduction of Fixed Assets and Depreciation Differences – Failure to Deduct Full Investments in Subsidiary Companies – Expiry of the Prescribed Period for Amendments

Abstract

The Appellant (Zakat Payer) challenges the Primary Department's Decision No. (IFR-2020-146) regarding the zakat assessment for the years 2004 to 2011. The Department, upon examining the matter in dispute, found that ZATCA's assessment was made after the expiration of legally prescribed period for making amendments to the Zakat Payer's declaration, which is five years from the deadline for submitting the same per year. These rules are established to ensure the stability of transactions and to avoid leaving zakat payers in a state of uncertainty without a defined period that would ensure their financial positions are not destabilized. Such stability has been confirmed in the face of ZATCA in the Zakat Payer's objection. Therefore, the Department accepts the appeal and overturns Primary Department's Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal filed on ../../... /... corresponding to ../.. /../.. by/ ..., National ID No. (...), in his capacity as the legal representative of the Appellant Company pursuant to its Articles of Association against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh No. (IFR-2020-146), issued in case No. (Z-10604-2019), regarding the zakat assessment for the years 2004 to 2011, filed by the Appellant against ZATCA. The primary Decision stated the following:

First: Proof of the resolution of the dispute between the Plaintiff/ ... Company (TIN No. ....) and the Defendant/ ZATCA concerning the creditor banks item, as the subject of the case.

Second: Proof of the resolution of the dispute between the Plaintiff/ ... Company (TIN No. ....) and the Defendant/ ZATCA concerning the subjection of the opening balance of retained earnings for the years 2004 to 2008, as the subject of the case.

Third: Proof of the resolution of the dispute between the Plaintiff/ ... Company (TIN No. ....) and the Defendant/ ZATCA concerning the profits and losses in the invested companies for the years 2004 to 2011, as the subject of the case.

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Fourth: Proof of the resolution of the dispute between the Plaintiff/ ... Company (TIN No. ....) and the Defendant/ ZATCA concerning foreign exchange conversion losses item for the years 2004 to 2011, as the subject of the case.
Fifth: Reject the Plaintiff's/ ... company (TIN No. ...) objection to the procedures of the Defendant/ ZATCA concerning the inclusion of creditors and amounts due item to the zakat base for the years 2004 to 2011 and the inclusion of loans for the years 2004 and 2006 to 2008, and a finance lease for the years 2004 to 2006, as the subject of the case.
Sixth: Reject the Plaintiff's/ ... company (TIN No. ...) objection to the procedures of the Defendant/ ZATCA concerning the inclusion of amounts due to related parties item to the zakat base for the years 2004 to 2009 and 2011, as the subject of the case.
Seventh: Reject the Plaintiff's/ ... company (TIN No. ...) objection to the procedures of the Defendant/ ZATCA concerning the deduction of fixed assets and depreciation differences item, for the years 2004 to 2011, as the subject of the case.
Fourth: Proof of the resolution of the dispute between the Plaintiff/ ... Company (TIN No. ....) and the Defendant/ ZATCA concerning foreign exchange conversion losses item for the years 2004 to 2011, as the subject of the case.
Fifth: Reject the Plaintiff's/ ... company (TIN No. ...) objection to the procedures of the Defendant/ ZATCA concerning the inclusion of creditors and amounts due item to the zakat base for the years 2004 to 2011 and the inclusion of loans for the years 2004 and 2006 to 2008, and a finance lease for the years 2004 to 2006, as the subject of the case.
Sixth: Reject the Plaintiff's/ ... company (TIN No. ...) objection to the procedures of the Defendant/ ZATCA concerning the inclusion of amounts due to related parties item to the zakat base for the years 2004 to 2009 and 2011, as the subject of the case.
Seventh: Reject the Plaintiff's/ ... company (TIN No. ...) objection to the procedures of the Defendant/ ZATCA concerning the deduction of fixed assets and depreciation differences item, for the years 2004 to 2011, as the subject of the case.
Eighth: Reject the Plaintiff's/ ... company (TIN No. ...) objection to the procedures of the Defendant/ ZATCA concerning the non-deduction of the full investments in subsidiary and affiliated companies available for sale item for the years 2004 to 2011, as the subject of the case.
Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:
The Zakat Payer objects to the Primary Department's Decision under appeal, claiming that Circular No. (...) dated ../../...., regarding (Inclusion of creditors, amounts due, loans, and finance leases in the zakat base) item, does not impose zakat on debts arising from the purchase of goods and services for sale and trade purposes, as these do not finance long-term assets that are deducted from the zakat base. The Zakat Payer, regarding (Inclusion of amounts due to related parties) item, claims that Circular No. (...) dated ../../.... does not impose zakat on the amounts due to related parties arising from transactions carried out during the normal course of business and over short periods. Moreover, the Zakat Payer, regarding (deduction of fixed assets and depreciation differences) item, claims that the deduction of fixed assets and the reversal of depreciation differences to the adjusted profit for the years 2004 to 2011 must be accepted, as the Appellant applied Circular No. (...) dated ../../...., , and therefore Article (17) of the Income Tax Law was applied. The Zakat Payer, regarding (Non-deduction of full investments in subsidiary, affiliated, and available-for-sale companies from the zakat base) item, claims that all investments are in Saudi local companies that are registered with ZATCA, submit their zakat declarations, and pay the due zakat. Since these investments are in the capital of local companies, they should be deductible according to Circular No. (2/8443/1), dated 8/8/1392 AH, and Ministerial Decision No. (1005) dated 28/4/1428 AH. Furthermore, ZATCA excluded profits and losses of investments from the adjusted profit but did not

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deduct the principal investment, thus failing to apply a consistent treatment. Paragraph (4) of Article (4) of the Implementing Regulations for the Collection of Zakat stipulates the deduction of investments in establishments subject to zakat and Circular No. (...) dated ../../.... permits the deduction of investments under establishment, thus considering local investments as part of deductible assets from the zakat base. ZATCA can verify the zakat payment on investments in local companies through the attached TIN. Therefore, the Zakat Payer requests the annulment of the primary Decision for the aforementioned Grounds.

When the Department decided to open the pleadings, ZATCA presented a memorandum of reply dated 10/07/1442 AH corresponding to 21/01/2021 addressing the Zakat Payer's appeal. ZATCA reiterated its position presented before the Primary Department and clarified, regarding (Conclusion of creditors, amounts due, loans, and finance leases in the zakat base) item, that it added such amounts to the base in accordance with Fatwa No. (...) dated ../../....and Article (4/ Item First) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. ZATCA, regarding the (Amounts due to related parties) item, included such amounts to the zakat base in accordance with Fatwa No. (...) dated ../../....and Article (4/ Item First) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. ZATCA, regarding the (fixed assets and depreciation differences) item, deducted the fixed assets from the zakat base in accordance with the audited financial statements pursuant to Paragraph (14) of Article (7) of the Implementing Regulations for the Collection of Zakat. ZATCA, regarding the (Investment in subsidiary, affiliated, and available-for-sale companies) item, rejected such investments due to the lack of submission of financial statements for the invested companies or proof of zakat payment for these investments, in order to prevent evasion, in accordance with Ministerial Decision No. (105) dated 28/04/1428 AH of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. Accordingly, ZATCA maintains the validity and correctness of its procedures and requests the rejection of the Zakat Payer's appeal and the affirmation of the Primary Department's Decision for the aforementioned Grounds.

On Wednesday, ../../.... Corresponding to 13/10/2021 AD, the Department decided to hold a 10-day electronic pleading hearing. However, the period elapsed without either party to the appeal submitting any additional arguments.

On Thursday, 24/06/1443 AH corresponding to 27/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

The Department, upon reviewing the subject of the dispute, found that ZATCA's assessment was conducted after the legally prescribed period for making amendments to the Zakat Payer's declaration, which is five years from the deadline for submitting the same per year. These rules are established to ensure the stability of transactions and to avoid leaving zakat payers in a state of uncertainty without a defined period that would ensure their financial positions are not destabilized, which was confirmed in the Zakat Payer's objection against ZATCA. This does not absolve the Zakat Payer of the religious

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obligation if they are indeed liable for it; however, it affects the procedural aspect related to ZATCA's right to reopen assessments after the expiration of the legally prescribed period. Therefore, the Department concludes that ZATCA's action in making those amendments was incorrect, leading to its Decision to accept the Zakat Payer's appeal and annul the Primary Department's Decision in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form by the Zakat Payer/ ... company, CR No. (...), TIN No. (...) against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh No. (IFR-2020-146), issued in case number (Z-10604-2019), related to zakat assessment for the years 2004 to 2011.

Second: On Merits:

The Zakat Payer's appeal is accepted and the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh is overturned in all of its aspects, in accordance with the reasons and justifications stated in this Decision.

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Keywords

Zakat – Accounts – Investments in Closed-End Real Estate Funds – Ongoing Projects - Current Accounts of Creditor Partners with One Complete Year - Expiry of the Prescribed Period for Amendments

Abstract

The Appellant (Zakat Payer) challenges the Primary Department's Decision No. (IFR-2020-180) regarding the zakat assessment for the years 2008, 2009 and 2011. The Department, upon examining the matter in dispute, found that ZATCA's assessment was made after the expiration of legally prescribed period for making amendments to the Zakat Payer's declaration, which is five years from the deadline for submitting the same per year. These rules are established to ensure the stability of transactions and to avoid leaving zakat payers in a state of uncertainty without a defined period that would ensure their financial positions are not destabilized, which was confirmed in the Zakat Payer's objection against ZATCA. Therefore, the Department accepts the appeal and overturns Primary Department's Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal filed on .. /.. /... corresponding to .. /.. /../.. by/ ..., National ID No. (...), in his capacity as the legal representative of the Appellant Company pursuant to PoA No. (...) against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh No. (IFR-2020-180), issued in case No. (Z-6980-2019), regarding the zakat assessment for the years 2008, 2009 and 2011, filed by the Appellant against ZATCA. The primary Decision stated the following:

First: Reject the Plaintiff's/ ... Company (TIN No. ...) objection against the Defendant's/ZATCA Decision regarding the non-deduction of investments in closed-end real estate funds from the zakat base of 2011.

Second: Reject the Plaintiff's/ ... Company (TIN No. ...) objection against the Defendant's/ZATCA Decision regarding the non-deduction of the cost of ongoing projects from the zakat base for the years 2008, 2009 and 2011.

Third: Reject the Plaintiff's/ ... Company (TIN No. ...) objection against the Defendant's/ZATCA Decision regarding the current accounts of partners from the zakat base of 2008.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

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The Zakat Payer objects to the Primary Department's Decision under appeal, claiming, regarding (Investments in closed-end real estate funds) item, that the key consideration for deducting assets from the zakat base is their use for productive purposes, rather than for trade or sale preparation. Non-current assets if used to generate income and the real estate investments used by the company to generate revenue should be deductible from the zakat base. The company's intention is to retain these investments as capital assets to achieve returns. Moreover, these investments are managed by (...) Securities, licensed by SAMA and the Capital Market Authority, and the required Documents were submitted by ZATCA. The Zakat Payer, regarding the (ongoing projects) item, claims that the key consideration for deducting assets is their use for productive purposes, rather than for trade or sale preparation. Non-current assets are deductible if used to generate income, and ongoing projects that will later be classified as real estate investments should be treated as non-current assets. The determination of whether assets are capital or trading assets depends on the company's intention, as reflected in its financial statements, with the actual situation being the most important consideration. Two conditions must be met for an asset to be considered a capital asset and deductible: the intention before construction and evidence of no purchasing or selling activities during the disputed years. The Zakat Payer, regarding the (current accounts of creditor partner with one complete year) item, claims that the balance of current account of partners for the year 2008 amounting to SAR 20,472,523 should not be added to the zakat base as there was activity on the account and ZATCA did not issue a notice of insufficient documentation. Consequently, the Zakat Payer requests the annulment of the Primary Department's Decision for the aforementioned Grounds.

When the Department decided to open the pleadings, ZATCA presented a memorandum of reply dated 08/08/1442 AH corresponding to 21/03/2021 addressing the Zakat Payer's appeal and reiterated its position presented before the Primary Department. ZATCA clarified that it rejected the Zakat Payer's objection for its failure to submit the necessary documentation to support the claims in accordance with Paragraph (3) of Article (20) of the Implementing Regulations for the Collection of Zakat issued in 1438 AH. Furthermore, ZATCA asserts that the Zakat Payer did not provide all the requested documentation as claimed as a whole and in detail. Therefore, ZATCA maintains the validity and correctness of its actions and requests the dismissal of the Zakat Payer's appeal and affirmation of the primary Decision for the aforementioned Grounds.

On Wednesday, 07/03/1443 AH corresponding to 13/10/2021 AD, the Department decided to hold a 10-day electronic pleading hearing. Consequently, the Zakat Payer presented a number of Documents.

On Thursday, 24/06/1443 AH corresponding to 27/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

The Department, upon reviewing the subject of the dispute, found that ZATCA's assessment was conducted after the legally prescribed period for making amendments to the Zakat Payer's declaration, which is five years from the deadline for submitting the

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same per year. These rules are established to ensure the stability of transactions and to avoid leaving zakat payers in a state of uncertainty without a defined period that would ensure their financial positions are not destabilized, which was confirmed in the Zakat Payer's objection against ZATCA. This does not absolve the Zakat Payer of the religious obligation if they are indeed liable for it; however, it affects the procedural aspect related to ZATCA's right to reopen assessments after the expiration of the legally prescribed period. Therefore, the Department concludes that ZATCA's action in making those amendments was incorrect, leading to its Decision to accept the Zakat Payer's appeal and annul the Primary Department's Decision in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form by the Zakat Payer/ ... company, CR No. (...), TIN No. (...) against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh No. (IFR-2020-180), issued in case number (Z-6980-2019), related to zakat assessment for the years 2008, 2009 and 2011.

Second: On Merits:

The Zakat Payer's appeal is accepted and the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh is overturned in all of its aspects, in accordance with the reasons and justifications stated in this Decision.

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

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Decision No. IR-2022-61
Case No. Z-26009-2020

Keywords
Zakat – Accounts – Statutory Period for Assessment – Contract Profits – Expiry of the Prescribed Period for Amendments

Abstract

The Appellant (ZATCA/ Zakat Payer) challenges the Primary Department's Decision No. (Z-6364-2019) regarding the zakat assessment for the years 2005 AD. The Department found that ZATCA's assessment was made after the statutory period for amending the Zakat Payer's declaration, which is set at five years from the final deadline for the Zakat Payer to submit their zakat declaration on annual basis. However, the effect of this delay is merely procedural and concerns ZATCA's right to reopen the assessment after the statutory period has lapsed. Regarding ZATCA's appeal concerning (Annulment of the Defendant's Decision regarding 'Contract Profits for the years 2005, 2006, and 2008') item. ZATCA's appeal is based on the existence of contracts between the Zakat Payer and government entities that were not declared, and to which the Zakat Payer did not respond when confronted. The Department, upon reviewing the matter of the dispute, determined that the assessments made against the Zakat Payer are not in compliance with regulations given that they were conducted after the expiration of the statutory period within which ZATCA is entitled to reassess zakat payers. Therefore, the Department ruled to accept the Zakat Payer's appeal, annul the primary Decision, and reject ZATCA's appeal regarding the contract profits item.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of the Zakat Law, issued by Minister of Finance Decision No. (2082) dated 01/04/1438 AH

Facts:

To consider the appeal filed on .. /.. /...., corresponding to .. /.. .../ by... company And appeal filed on .. /.. /...., corresponding to .. /.. /../.. By ZATCA against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2020-132), issued in case No. (Z-6364-2019), regarding the zakat assessment for the years 2005 to 2008 AD, filed by the Appellant against ZATCA. The primary Decision stated the following:

In from:

Accept the case in form.

On Merits:

1. Reject the Plaintiff's objection regarding the 'Statutory Period for Assessment for the years 2005 to 2008.'

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2. Annul the Defendant's Decision regarding the 'Differences in Depreciation and Net Fixed Assets for the years 2005 to 2008.'
3. Reject the Plaintiff's objection regarding the 'Differences in Imports for the years 2005 to 2008'.
4. Abolish the Defendant's Decision regarding 'Contract Profits for the years 2005, 2006, and 2008'.
5. Reject the Plaintiff's objection regarding 'Loans for the years 2005 and 2008'.
6. Reject the Plaintiff's objection regarding the 'Doubtful Debts Provision for the years 2007 and 2008.'
7. Reject the Plaintiff's objection regarding 'Bad Debts for the year 2008.'.
8. Reject the Plaintiff's objection regarding 'Partners' Current Accounts for the years 2006 and 2007'.
9. Reject the Plaintiff's objection regarding 'Withdrawals from Partners' Current Accounts for the year 2006'.
10. Reject the Plaintiff's objection regarding 'Donations for the year 2006'.
11. Reject the Plaintiff's objection regarding 'Withholding Tax on Consulting and Technical Services for the years 2005 to 2008'.

Dissatisfied with that Decision, both parties filed a statement of appeal summarized as follows:

As for Zakat Payer's appeal against Primary Department's Decision, Zakat Payer's appeal involves: The Zakat Payer, concerning the (Statutory Period for Assessment for the years 2005 to 2008) item, claims that, according to the primary objection, the appeal was made against the zakat assessment for the years 2005 to 2008. Moreover, the Zakat Payer points to page nine of the same letter, which stipulates that the referenced assessment pertains to periods exceeding ten years, contrary to Ministerial Decision No. (2555) of 1417 AH. ZATCA did not request any clarifications or additional information from the Zakat Payer during the statutory period, resulting in additional differences in all items contested before the Primary Department due to the reopening of the assessment after the statutory period had elapsed. Therefore, the Zakat Payer requests the annulment of the primary Decision on the contested items for the aforementioned Grounds.

Since this Decision was not accepted by ZATCA, ZATCA filed an appeal against the contested Decision by virtue of an appeal brief that included the following:

ZATCA, regarding its appeal against the (Annulment of the Defendant's Decision concerning 'Contract Profits for the years 2005, 2006, and 2008') item, clarifies that its inclusion of these contracts and accounting of the Zakat Payer at a profit rate of 15% was not arbitrary, considering that ZATCA is a government entity, subjects all its assessments to thorough auditing and review before notifying zakat payers, a fact that the issuing department disregarded, as it should have requested details of these contracts from ZATCA rather than issuing its Decision based solely on the Zakat Payer's denial. ZATCA found that there were contracts between the Zakat Payer and government entities that were not declared, and when confronted with this requesting for an explanation, the Zakat Payer failed to do so. Consequently, these contracts were taxed at a rate of (15%) in accordance with Paragraph (5) of Article (13) and Paragraph (6) (b) of the same Article. Therefore, ZATCA maintains that its procedure was correct and valid and requests the affirmation of its procedure and annulment of the primary Decision on the item subject to ZATCA's appeal for the aforementioned Grounds.

When the Department decided to open the pleadings, ZATCA presented a memorandum of reply dated 11/08/1442 AH corresponding to 24/03/2021 addressing the Zakat Payer's appeal. In summary, the memorandum maintains that the appealed Decision is valid and the Zakat Payer's arguments do not deviate from those previously raised and addressed by ZATCA, which reaffirms its position as stated in the appealed Decision regarding the

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contested items, in accordance with the statutory provisions, as detailed in ZATCA's previous memorandum submitted to the Primary Department. ZATCA requests the Department to reject any new Documents not submitted during the examination and objection phase. Therefore, ZATCA maintains the validity and correctness of its actions and requests that the Zakat Payer's appeal be dismissed and the primary Decision on the contested items be upheld based on the aforementioned Grounds.

On Wednesday, 07/03/1443 AH corresponding to 13/10/2021 AD, the Department decided to hold a 10-day electronic pleading hearing. However, the period elapsed without either party to the appeal submitting any additional arguments.

On Thursday, 09/07/1443 AH corresponding to 10/02/2022 AD, having perused the Parties' submissions regarding appeal and responding to them, having examined papers and Documents contained in case file, the Department established that the case was ready for adjudication and issuance of Decision. Accordingly, the Department decided to close the pleadings and set the case for adjudication.

Grounds

When reviewing Case Documents and Appeal Brief submitted by the Appellant Company and ZATCA, the Department was satisfied that conditions of appeal hearing have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. Therefore, both appeal requests were accepted in form because they were submitted by persons with legal capacity and within the legally prescribed period.

As for the merits of case, the Department found that ZATCA's assessment was conducted after the legally prescribed period for making amendments to the Zakat Payer's declaration, which is five years from the deadline for submitting the same per year. These rules are established to ensure the stability of transactions and to avoid leaving zakat payers in a state of uncertainty without a defined period that would ensure their financial positions are not destabilized, which was confirmed in the Zakat Payer's objection against ZATCA. This does not absolve the Zakat Payer of the religious obligation if they are indeed liable for it; however, it affects the procedural aspect related to ZATCA's right to reopen assessments after the expiration of the legally prescribed period. Therefore, the Department concludes that the assessment Decisions against the Zakat Payer for the years in dispute are not in compliance with regulations and decides to annul those Decisions for the years in question. Consequently, this Department accepts the Zakat Payer's appeal and annul the primary Decision on all its items, and directs that the Zakat Payer be assessed according to the zakat declarations submitted to ZATCA.

Regarding ZATCA's appeal concerning (Annulment of the Defendant's Decision regarding 'Contract Profits for the years 2005, 2006, and 2008') item. ZATCA's appeal is based on the existence of contracts between the Zakat Payer and government entities that were not declared, and to which the Zakat Payer did not respond when confronted. The Department, upon reviewing the matter of the dispute, determined that the assessment Decisions against the Zakat Payer are not in compliance with regulations, as they were made after the expiration of the statutory period during which ZATCA is permitted to reassess zakat payers. Consequently, the Department decided to annul the primary Decision on all its items and to assess the Zakat Payer according to the zakat declarations submitted to ZATCA. Therefore, the Department rejects ZATCA's appeal.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form by the Zakat Payer/ ... company, CR No. (...), TIN No. (...) and ZATCA's appeal against the Decision of the First Department for Determination

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of Income Tax Violations and Disputes in Dammam No. (IZD-2020-132), issued in case number (Z-6364-2019), related to zakat assessment for the years 2005 to 2008.

Second: On Merits:

1. The Zakat Payer's appeal is accepted and the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam is overturned in all of its aspects. The Zakat Payer will be assessed according to the zakat declarations submitted to ZATCA in accordance with the reasons and justifications stated in this Decision.
2. Reject ZATCA's appeal regarding the (Annulment of the Defendant's Decision concerning 'Contract Profits for the years 2005, 2006, and 2008') item, based on the reasons and considerations stated in this Decision.

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Decision No. IR-2022-81
Case No. Z-32434-2020

Keywords
Zakat – Accounts – Payables – Expiry of the Prescribed Period for Amendments

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (IZJ-2020-172) regarding the zakat assessment for the year 2010 AD. The Zakat Payer's appeal is based on objections to the primary Decision to uphold ZATCA's amendment to the Zakat Payer's declaration for the year 2010. Given than ZATCA's assessment of the Zakat Payer was made after the expiration of the five-year period stipulated in the Implementing Regulations for Zakat Collection, the Zakat Payer's appeal is hereby granted and the primary Decision is annulled.

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal filed on .. /../... corresponding to .. /../.. By ... (National ID No. ....) in his capacity as the owner of the appellant establishment against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah No. (IZJ-2020-172), issued in case No. (Z-7714-2019), regarding the zakat assessment for the year 2010 AD, filed by the Appellant against ZATCA. The primary Decision stated the following:

First: In form:

Accept the Case in form filed by Plaintiff (... Enterprise), C.R. No. (...).

Second: On Merits:

1. Accept the Plaintiff's/ (... Est.) objection regarding the withdrawn profits item for the year 2010, in accordance with the Grounds for judgment.
2. Reject the Plaintiff's/ (... Est.) objection regarding the payables item amounting to SAR (10,000), in accordance with the Grounds for judgment.

Since the aforementioned Decision was not accepted by the Zakat Payer (... Est.), it presented a statement of appeal to the Department, summarized as follows:

The Zakat Payer objects to the primary Decision, claiming that, regarding the 'Payables' item, it has evidence of payment of this amount and that it has not been due for a full year. Therefore, the Zakat Payer requests the annulment of the primary Decision for the aforementioned Grounds.

When the Department decided to open the pleadings, ZATCA presented a memorandum of reply dated 15/08/1442 AH corresponding to 28/03/2021 in response to the Zakat Payer's appeal, requesting the Department to verify whether the Zakat Payer submitted

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their appeal within the statutory period and dismiss the appeal as the value of the claim does not exceed SAR (50,000), in accordance with Paragraph (1) of Article (42) of Tax Disputes and Violations Committee Procedures.

On Tuesday, 29/06/1443 AH corresponding to 01/02/2022 AD, the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On Monday, 20/07/1443 AH corresponding to 21/02/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On the matter of the Zakat Payer's appeal against the primary Decision affirming ZATCA's amendment to the Zakat Payer's 2010 declaration, the Department finds that ZATCA's assessment was made after the expiration of the five-year period stipulated in the Implementing Regulations for Zakat Collection. Since ZATCA did not issue the final assessment until 14/08/1439 AH corresponding to 29/04/2018 AD, and given that the Implementing Regulations for Zakat Collection state that the five-year period begins from the final deadline for the Zakat Payer to submit their annual zakat declaration to ensure the stability of transactions and prevent zakat payers from experiencing uncertainty regarding their financial positions. Therefore, the Department decided to uphold the Zakat Payer's 2010 declaration, overrule ZATCA's amendment to the Zakat Payer's declaration in dispute, as it exceeded the prescribed time limit for issuing the final assessment, and annul the primary Decision in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form by the Zakat Payer/ ... Est., CR No. (...), TIN No. (...), against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah No. (IZJ-2020-172), issued in case number (Z-7714-2019), related to zakat assessment for the year 2010 AD.

Second: On Merits: Accept Zakat Payer's appeal and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah according to reasons and Grounds stated herein.

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

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Keywords
Zakat – Accounts – Ongoing Projects - Documentation Submission

Abstract

The Appellant (Zakat Payer) requests to annul the primary Decision No. (IFR-2020-286) regarding zakat assessment for 2017 AD. Having reviewed the Zakat Payer's appeal and examined the case file, the Department notes that the Zakat Payer's appeal challenges the Primary Department's Decision to affirm ZATCA's finding that the ongoing projects were intended for sale, despite the submission of supporting Documents indicating that they were for personal use. The Department, upon considering the dispute and reviewing the case file, finds no evidence that these ongoing projects were intended for sale while construction was still in progress. Therefore, the Department accepts Zakat Payer's appeal and overturns Primary Department's Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal filed on ../../... /.... corresponding to ../.. /.... By/ (...), National ID No. (...), in his capacity as the legal representative of the Appellant Company pursuant to its Articles of Association against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh No. (IFR-2020-286), issued in case No. (Z-6957-2019), regarding the zakat assessment for the year 2017, filed by the Appellant against ZATCA. The primary Decision stated the following:

Reject the Plaintiff's/ (...) company objection, (TIN No. ...), against the Defendant's Decision/ ZATCA regarding zakat assessment under dispute.

Since the aforementioned Decision was not accepted by the Zakat Payer (... Co.), it presented a statement of appeal to the Department, summarized as follows:

The Zakat Payer objects to the primary Decision in dispute, arguing that the Documents submitted to ZATCA were accurate and reflected the company's actual financial situation. The Zakat Payer further claims that they were unable to discuss their objections during the hearing due to a technical malfunction. Additionally, a letter was sent to ZATCA providing a detailed explanation of the purpose of the ongoing projects, which were for buildings owned by a third party and intended for use as the company's offices under a long-term lease with a fixed rental value. ZATCA's contention that these projects were for the design and execution of architectural works and construction of a private villa, and arguing that it will be used as the company's main office, is not a valid justification for

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incorrect assessment, as the villa is not owned by the company but rather leased, and the renovations were undertaken for the purpose of using it in accordance with the long-term lease. Furthermore, ZATCA 's assertion before the Primary Department that the company's activities include 'general contracting for buildings and purchasing land for construction and investment through sale or lease for the company's benefit' is incorrect. The company's commercial register and articles of association clearly state that its activities include road and bridge construction, excavation, plumbing, hydraulics, electrical and mechanical work, decoration, water and sewage work, metalwork, landscaping, afforestation, site organization, general building contracting (construction, repair, demolition, renovation), maintenance, cleaning, and operation of residential and commercial buildings, and leasing of heavy and light equipment'. Therefore, the company does not engage in activities allowing it to sell and earn profits from sales. Moreover, ZATCA accepted the deduction of these costs from the zakat base for 2016 but rejected it for 2017. Although the closing of expenses for ongoing projects in the company's partners' current account in 2018 was made by a Decision of the partners, it would have been more appropriate from an accounting standpoint to transfer the amount to fixed assets. However, this treatment did not materially affect the zakat base. Accordingly, the Zakat Payer requests removal of the item from the zakat base, as well as the annulment of the primary Decision for the aforementioned Grounds.

On Tuesday,29/06/1443 AH corresponding to 01/02/2022 AD, the Department decided to hold a 10-day electronic pleading hearing, ZATCA presented a memorandum of reply addressing the Zakat Payer's appeal and affirming its position presented before the Primary Department regarding the contested items. ZATCA clarified, regarding (Ongoing Projects) item, based on Paragraph (2), Item (2) of Article (4) and Paragraph (3) of Article (20) of the Implementing Regulations for Zakat Collection issued in 1438 AH, and given that the company's purpose, according to its articles of association submitted by the Plaintiff, is to purchase land for construction and investment through sale or lease. Since the Plaintiff did not provide evidence that the land was for personal use, ZATCA's procedure is deemed correct and valid.

ZATCA requests that no new Documents be accepted from the Zakat Payer, based on Article (168) of the Law of Civil Procedures. Accordingly, ZATCA maintains that its actions are correct and valid and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision for the aforementioned Grounds.

On Thursday, 16/07/1443 AH corresponding to 17/02/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, having reviewed the Zakat Payer's appeal and examined the case file, the Department notes that the Zakat Payer's appeal challenges the Primary Department's Decision to affirm ZATCA's finding that the ongoing projects were intended for sale, despite the submission of supporting Documents indicating that they were for personal use. However, ZATCA insists on the validity and correctness of its actions and requests the dismissal of the Zakat Payer's appeal and affirmation of the

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primary Decision. The Department, upon considering the dispute and reviewing the case file, finds no evidence that these ongoing projects were intended for sale while construction was still in progress. ZATCA failed to prove that the company had an intention to sell those projects in their state at the time of execution or provide evidence of any sales transactions for those projects in that state. Therefore, the Zakat Payer's argument that these ongoing projects should not be included in its zakat base for the year in dispute is supported by the evidence. Therefore, the Department decided to accept the Zakat Payer's appeal by deducting the amount related to the ongoing projects for the year in dispute and annul the primary Decision in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal filed by the Zakat Payer/ (...) Company, CR (.....), TIN (....), in form against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh No. (IFR-2020-286), issued in case number (Z-6957-2019), related to zakat assessment for the year 2017 AD.

Second: On Merits:

The Zakat Payer's appeal is accepted and the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh is overturned in all of its aspects, in accordance with the reasons and justifications stated in this Decision.

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

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Keywords
Zakat – Accounts – Financial Statements for Contracting Companies

Abstract

The Appellant (Zakat Payer) challenges Primary Decision No. (IFR-2020-192) regarding the zakat assessment for the years 1436 AH to 1438 AH. The Zakat Payer's appeal is based on the financial statements submitted, which served as the basis for the reassessment, were fabricated solely for the purpose of obtaining a contracting classification. The Department, upon careful consideration of the dispute, granted the Zakat Payer an opportunity to provide evidence that they had initially filed an objection to the zakat assessment against ZATCA. Since the Zakat Payer failed to provide any evidence that could justify overturning the Decision under appeal, and since this Department ascertained the correctness of the conclusion reached by the Primary Department, Therefore, the Department dismisses the appeal and upholds Primary Department's Decision.

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal filed on .. /.. /.... corresponding to ../.. /.. /.... By(...)، National ID No. (...), In his capacity as the owner of the Appellant Establishment against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh No. (IFR-2020-192), issued in case No. (Z-3216-2019), regarding the zakat assessment for the years 1436 AH to 1438 AH, filed by the Appellant against ZATCA. The primary Decision stated the following:

First: Dismiss the Plaintiff's/ (....) request TIN..... Against the Defendant/ ZATCA due to the Plaintiff's failure to object to the Defendant's Decision regarding zakat assessment for the years 1437 AH and 1438 AH within the statutory period.

Second: 2. Dismiss all other objections.

Since the aforementioned Decision was not accepted by the Zakat Payer (... Est.), it presented a statement of appeal to the Department, summarized as follows:

The Zakat Payer challenges the primary Decision, specifically the Defendant's action of its assessment based on its financial statements for the year 1436 AH. The objection centers on the fact that these financial statements were submitted by the legal office, in collaboration with an employee of the Zakat Payer, who signed the same without the Zakat Payer's knowledge, in order to obtain a contracting classification, resulting in an inflated budget. Consequently, the Zakat Payer asserts that these financial statements are

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inaccurate and, therefore, requests the annulment of the primary Decision for the aforementioned Grounds.

When the Department decided to open the pleadings, ZATCA presented a memorandum of reply dated 10/07/1442 AH corresponding to 21/02/2021 responding to the Zakat Payer's appeal by affirming its position presented before the Primary Department and confirming its Decision. ZATCA also argues for the dismissal of the objection related to the years 1437 AH and 1438 AH in form, as the objection was filed after the statutory period. ZATCA, regarding 1436 AH, explains that the reassessment was conducted based on the Zakat Payer's submitted financial statements, which are the primary basis for calculating zakat. ZATCA's actions are grounded in Ministerial Decision No. (2555) of 1417 AH. Accordingly, ZATCA maintains that its actions were correct and proper and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision for the aforementioned Grounds.

On Monday, 23/05/1443 AH corresponding to 27/12/2021 AD, the Department decided to hold a 10-day electronic pleading hearing. However, the period elapsed without either party to the appeal submitting any additional arguments.

On Wednesday, 16/06/1443 AH, corresponding to 19/01/2022 AD, the Department, after reviewing the subject matter of the dispute and examining the case file, requested the Zakat Payer to provide proof of having submitted their objection for the years 1437 AH and 1438 AH to ZATCA within the statutory period, provided that it be submitted within seven (7) days of its date. However, Zakat Payer did not provide the required Documents.

On Sunday, 27/06/1443 AH corresponding to 30/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, the Zakat Payer's appeal is based on the financial statements submitted, which served as the basis for the reassessment, were fabricated to obtain a contracting classification. In contrast, ZATCA contends that the appeal should be dismissed and the primary Decision affirmed. The Department, upon careful consideration of the dispute, granted the Zakat Payer an opportunity to provide evidence that they had initially filed an objection to the zakat assessment against ZATCA. Since the Zakat Payer failed to provide any evidence that could justify overturning the Decision under appeal, and since this Department ascertained the correctness of the conclusion reached by the Primary Department, and that the reasons upon which the earlier Decision was based are sufficient to uphold it, this Department hereby dismisses the Zakat Payer's appeal and affirms the primary Decision in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal filed by the Zakat Payer/ (...) Establishment, CR (.....), TIN (....), in form against the Decision of the First Department for Determination of Income Tax

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Violations and Disputes in Riyadh No. (...) issued in case No. (...) regarding zakat assessment for the years 1436 AH to 1438 AH.

Second: On Merits:

Dismiss appeal filed by Zakat Payer and uphold the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh according to reasons and Grounds stated herein.

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

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Keywords
Zakat – Accounts – Expiry of Statutory Period – Sales Expenses

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (IZJ-2020-73) regarding the zakat assessment for the years 1434 AH to 1437 AH. The Zakat Payer's appeal is grounded in the contention that the Primary Department limited its review of the case in form and neglecting to delve into the merits of the case. The Department, upon careful consideration of the dispute, granted the Zakat Payer an opportunity to provide evidence that they had initially filed an objection to the zakat assessment against ZATCA. Since the Zakat Payer failed to provide any evidence that could justify overturning the Decision under appeal, and since this Department ascertained the correctness of the conclusion reached by the Primary Department, Therefore, the Department dismisses the appeal and upholds Primary Department's Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal filed on ../../... /...., corresponding to .. /.. /...., by ..., National ID No. (...), in his capacity as the owner of the Appellant Establishment against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah No. (IZJ-2020-73), issued in case No. (Z-6517-2019), regarding the zakat assessment for the years 1434 AH to 1437 AH, filed by the Appellant against ZATCA. The primary Decision stated the following:

Dismiss the Plaintiff's (... Est.), CR No. (...) claim in form for being premature.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

The Zakat Payer objects to the primary Decision under appeal and requests that the appeal be considered on its merits, arguing that the Primary Department failed to address the substantive issues of their case due to the objection not being filed before ZATCA within the statutory period. On the other hand, the assessment is incorrect because ZATCA did not address sales expenses. Therefore, the Zakat Payer requests the annulment of the primary Decision for the aforementioned Grounds.

On Monday, 23/05/1443 AH corresponding to 27/12/2021 AD, the Department decided to hold a 10-day electronic pleading hearing. However, the period elapsed without either party to the appeal submitting any additional arguments.

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On Wednesday, 16/06/1443 AH, corresponding to 19/01/2022 AD, the Department, after reviewing the Zakat Payer's appeal and considering the Zakat Payer's claim of having filed an objection against ZATCA, requested the Zakat Payer to provide proof of having submitted the objection to ZATCA's assessment before ZATCA prior to filing its claim before the Primary Department, to be submitted within seven (7) days of its date. However, Zakat Payer did not provide the required Documents.

On Sunday, 27/06/1443 AH corresponding to 30/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, the Zakat Payer's appeal is grounded in the contention that the Primary Department limited its review of the case in form and neglecting to delve into the merits of the case. The Department, upon careful consideration of the dispute, granted the Zakat Payer an opportunity to provide evidence that they had initially filed an objection to the zakat assessment against ZATCA. Since the Zakat Payer failed to provide any evidence that could justify overturning the Decision under appeal, This Department ascertained the correctness of the conclusion reached by the Primary Department, and that the reasons given in support of that Decision are sufficient to affirm it. Accordingly, the Department concludes to dismiss the Zakat Payer's appeal and affirm the primary Decision in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form by the Zakat Payer/ ... Est, CR No. (...), TIN No. (...) against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah No. (IZJ-2020-73), issued in case number (Z-6517-2019), related to zakat assessment for the years 1434 AH to 1437 AH.

Second: On Merits:

ZATCA's appeal is rejected and the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah is upheld, in accordance with the reasons and justifications stated in this Decision.

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

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Keywords
Zakat – Accounts – Depreciation Differences – Fixed Assets – Accounts Payable – Acceptance of Appeal – Annulment of the Primary Decision

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (IFR-2020-142) regarding the zakat assessment for the years 2012 to 2016. The Department, regarding (Depreciation Differences), (Fixed Assets), and (Payables) items, determined that ZATCA's assessment was conducted after the statutory period for making amendments to the Zakat Payer's declaration, which is five years from the final deadline for the Zakat Payer to submit its zakat declaration per year. Therefore, the Department ruled to accept the Zakat Payer's appeal regarding Depreciation Differences and Fixed Assets items for the years 2012 and 2013, dismiss the Decision, accept the Zakat Payer's appeal in relation to Payables item for the years 2012 and 2013 as well as the remaining years and amend the Decision.

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal presented on./../..... AH corresponding to././.... AD by/ ..., National ID No. (...), in his capacity as the Appellant Establishment's attorney pursuant to PoA No. (...) against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh No. (IFR-2020-142), issued in case No. (Z-10429-2019), regarding the zakat assessment for the years 2012 to 2016, filed by the Appellant against ZATCA. The primary Decision stated the following:

Reject the Plaintiff's/ ... Group (TIN No. ...) objection against the Defendant's/ZATCA action regarding the zakat assessment in question.

Since the aforementioned Decision was not accepted by the Zakat Payer (... Est.), it presented a statement of appeal to the Department, summarized as follows:

The Zakat Payer challenges the primary Decision, claiming that, regarding (Depreciation Differences) item, ZATCA calculated the depreciation expense based on the financial statements, whereas the correct method is the declining balance method as per Article (17) of the regulations and related instructions. ZATCA, regarding (Fixed Assets) item, also erroneously calculated the depreciation expense according to the financial statements, whereas the correct method is the declining balance method as per Article (17) of the regulations and related instructions. The Zakat Payer, regarding (Payables) item, argues that the age of these debts is less than one Hijri year, and thus they are not subject to zakat

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since the debts were settled within the year and before the completion of one year. Therefore, the Zakat Payer requests the annulment of the primary Decision for the aforementioned Grounds.

When the Department decided to open the pleadings, ZATCA presented a memorandum of reply dated 22/08/1442 AH corresponding to 04/04/2021 responding to the Zakat Payer's appeal by reaffirming its position on the items in question before the Primary Department. ZATCA, regarding (Depreciation Differences) and (Fixed Assets) items, clarified that the Primary Department affirmed ZATCA's actions as being in compliance with the regulations. The Primary Department reviewed the financial statements, asset schedules, and depreciation details and found discrepancies that indicated errors in the reported figures. The Primary Department, in relation to (Payables) item, supported ZATCA's actions as being in accordance with the regulations and noted that the summary provided by the Plaintiff only included opening and closing balances without detailing the debit and credit details to determine the year-end balances. Additionally, the statement was not extracted from the accounting system and was unsigned. ZATCA requests that no new Documents from the Zakat Payer be accepted, maintains that its actions were correct and valid, and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision for the aforementioned Grounds.

On Tuesday, 29/06/1443 AH corresponding to 01/02/2022 AD, the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On Thursday, 16/07/1443 AH corresponding to 17/02/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, having reviewed the Zakat Payer's appeal and the case file, the Department finds that the Zakat Payer's appeal regarding (Depreciation Differences and Fixed Assets for the years 2012 and 2013) items, is based on its objection to the depreciation calculation as reflected in the financial statements, requesting the adoption of the declining balance method in accordance with the relevant instructions. However, ZATCA maintains correctness and integrity of its action and requests to dismiss the Zakat Payer's appeal and affirm the primary Decision. The Department found that ZATCA's assessment was conducted on 04/11/1440 AH after the legally prescribed period for making amendments to the Zakat Payer's declaration, which is five years from the deadline for submitting the same per year. These rules are established to ensure the stability of transactions and to avoid leaving zakat payers in a state of uncertainty without a defined period that would ensure their financial positions are not destabilized, which was confirmed in the Zakat Payer's objection against ZATCA. This does not absolve the Zakat Payer of the religious obligation if they are indeed liable for it; however, it affects the procedural aspect related to ZATCA's right to reopen assessments after the expiration of the legally prescribed period. Therefore, the Department concludes that ZATCA's action in making those amendments was incorrect, leading to its Decision to accept the Zakat Payer's appeal and annul the Primary Department's Decision in this regard.

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The Zakat Payer's appeal, regarding (Payables for the years 2012 to 2016) item, is based on the objection to the inclusion of this item in the zakat base, arguing that it does not meet the criteria for not having one complete year. The Department, for 2012 and 2013, had made it clear that ZATCA assessment was performed on 04/11/1440 AH after the legally prescribed period for making amendments to the Zakat Payer's declaration, which is five years from the deadline for submitting the same per year. These rules are established to ensure the stability of transactions and to avoid leaving zakat payers in a state of uncertainty without a defined period that would ensure their financial positions are not destabilized, which was confirmed in the Zakat Payer's objection against ZATCA. This does not absolve the Zakat Payer of the religious obligation if they are indeed liable for it; however, it affects the procedural aspect related to ZATCA's right to reopen assessments after the expiration of the legally prescribed period. Therefore, the Department concludes that ZATCA's action in making those amendments was incorrect, leading to its Decision to accept the Zakat Payer's appeal and annul the primary Decision in this regard. As for the Zakat Payer's appeal concerning the years 2014 to 2016, upon reviewing the Documents submitted by the Zakat Payer, it was determined that the amounts subject to zakat from payables for the disputed years are SAR 127,710 for 2014, SAR 84,045 for 2015, and SAR 622,415 for 2016. Consequently, the Department decides to amend the primary Decision to include these amounts in the zakat base, excluding the remaining balance of payables for those years.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form by the Zakat Payer/ ... Est., CR No. (...), TIN No. (...) against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh No. (IFR-2020-142), issued in case number (Z-10429-2019), related to zakat assessment for the years 2012 to 2016.

Second: On Merits:

1. The Zakat Payer's appeal regarding (Depreciation Differences and Fixed Assets for the years 2012 and 2013) items, is accepted and the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh is overturned, in accordance with the reasons and justifications stated in this Decision.
2. Regarding (Payables for the years 2012 to 2016) item,
   A. The Zakat Payer's appeal regarding this item for the years 2012 and 2013 is accepted and the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh is overturned, in accordance with the reasons and justifications stated in this Decision.
   B. The Zakat Payer's appeal regarding this item for the remaining years is accepted and the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh is amended to include the amounts of SAR 127,710 for 2014, SAR 84,045 for 2015, and SAR 622,415 for 2016 in the zakat base, excluding the remaining balance of payables or those years, in accordance with the reasons and justifications stated in this Decision.

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

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Keywords

Zakat – Accounts – Import Discrepancies – Non-Commercial Creditors – Fixed Assets within Ownership Limits – Dismissal of Appeal Regarding Import Discrepancies – Acceptance of Appeal Regarding Non-Commercial Creditors – Acceptance of Appeal Regarding Fixed Assets

Abstract

The Appellant (Zakat Payer) is requesting the cancellation of Primary Decision No. (IZD-2020-149) regarding zakat assessment for 2013 AD concerning (Import Discrepancies) item. Zakat Payer's appeal centers on cancellation of the amendment made by ZATCA and acceptance of the submitted declaration pertaining to this item, as it became evident to the Department that ZATCA accepted the Zakat Payer's objection, thereby resolving the dispute. Furthermore, the Zakat Payer's appeal, regarding (Non-Commercial Creditors) item, disputes the Primary Department's affirmation of ZATCA's procedure in not resolving this item, claiming that the one-year period had not elapsed on these amounts. The Department found that the one-year period was indeed not fulfilled on the disputed amount and that it had not been used to finance an asset deductible from the base. As a result, the Department concludes that the Appellant is entitled to exclude this amount from the Zakat base. The Zakat Payer's appeal, regarding (Fixed Assets within Ownership Limits) item, demands the use of assets within ownership limits and the acceptance of all deductions presented in the zakat declaration for the year in question. The Department found that the Appellant had objected to the item of fixed assets within ownership limits before the Primary Department, which, however, did not address this objection, nor was it covered in the Decision's reasoning, rendering the dispute on this matter unresolved. This is to ensure that the Zakat Payer retains the right to litigate at two levels. Therefore, the Department ruled to accept the appeal regarding (Non-Commercial Creditors) and (Fixed Assets within Ownership Limits) items and confirm resolution of the dispute concerning (Import Discrepancies) item.

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal presented on./../..... AH corresponding to/.... AD /../.. by/ .., National ID No. (...), in his capacity as the legal representative of the Appellant Company pursuant to PoA No. (...) against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2020-149), issued in case

No. (Z-7933-2019), regarding the zakat assessment for the year 2013, filed by the Appellant against ZATCA. The primary Decision stated the following:

In from:

Accept the case filed by the Plaintiff/ ... Company (Tin No. ...) in form.

1. Prove resolution for the 'Import Discrepancy for the Years 2013' Item.
2. Reject the Plaintiff's objection to 'Long-term Loans Against Assets for the Year 2013' item.
3. Reject the Plaintiff's objection to 'Non-Commercial Creditors for the year 2013' item.

Since the aforementioned Decision was not accepted by the Zakat Payer (... Co.), it presented a statement of appeal to the Department, summarized as follows:

The Appellant (Zakat Payer) challenges the primary Decision, claiming that with respect to (Import Discrepancies) item, ZATCA clarified in its response that the Zakat Payer's objection to the profit adjustment due to import discrepancies was accepted, and it accepted its request by canceling the adjustment previously made and adopting the submitted declaration. ZATCA also mentioned that the matter would be processed after the appeal Decision is issued and requested that the Decision reflect the cancellation of the adjustment it made and adopt the company's declaration for the years 2013, 2014, and 2015 concerning this item. The Zakat Payer, concerning (Non-Commercial Creditors), claims that the Primary Department affirmed ZATCA's rejection of the objection on this item, justifying the rejection by stating that the financing of fixed asset additions and capital projects was sourced from this item. The Zakat Payer maintains its objection, arguing that ZATCA indicated that the financing of fixed asset additions and capital projects for 2013 was made from loan amounts and also from the current account fully included in the base. Given that the total additions during the year amounted to SAR 9,020,477, while the loans added to the base to cover this item were SAR (19,578,678), it is questioned how these additions were financed from these balances. ZATCA, regarding (Fixed Assets within Ownership Limits) item, explained that the base is within the adjusted profits and that there is no impact on the base whether assets under construction are deducted or not. The Zakat Payer responds by stating that since ZATCA addressed its objection to the profit adjustment due to import discrepancies and adopted the submitted declaration, zakat should be calculated on the base rather than adjusted profits, which allows for reconsideration of its objection regarding the use of assets within ownership limits and the acceptance of all deductions previously submitted in the zakat declaration. Therefore, the Zakat Payer requests dismissal of the primary Decision based on the aforementioned Grounds.

On Wednesday 07/03/1443 AH corresponding to 13/10/2021, the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the primary department. ZATCA also clarified that the Zakat Payer's appeal did not present new issues beyond what had been previously submitted and addressed. A primary Decision, regarding (Import Discrepancies) item, confirming the resolution of the dispute for this item had been issued and will be processed following the appellate Decision. The primary Decision, regarding (Non-Commercial Creditors) item, was consistent with the provisions of Paragraph (5) of Item (First) of Article (4) of Implementing Regulations for Zakat Collection issued in 1438 AH, where ZATCA included this item in the zakat base based on Note (12) in the financial statements. Moreover, the primary Decision, regarding (Fixed Assets within Ownership Limits for the year 2014) item, did not address this item for 2014. ZATCA had added the opening and closing balances, whichever is lower, to ensure compliance with the legal requirements for the completion of a year. Accordingly, ZATCA requests the dismissal of the Zakat Payer's appeal and affirmation of the primary

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Decision concerning the items contested by the Zakat Payer for the aforementioned Grounds.

On Thursday, 20/04/1443 AH, corresponding to 25/11/2021 AD, the Department, after reviewing the Zakat Payer's appeal, noted that the Zakat Payer had stated in its statement that it was notified of the primary Decision on 23/09/2020. Consequently, the Department requested the Zakat Payer to provide proof of receipt of the Decision on that date. Accordingly, the Department will continue to review the case in light of the information provided.

On Sunday, 09/09/1443 AH corresponding to 10/04/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, whereas the Zakat Payer's appeal in relation to (Import Discrepancies) item and whereas the essence of the Zakat Payer's appeal lies in the demand to cancel the adjustment made by ZATCA and to adopt the submitted declaration for this item. Meanwhile, ZATCA argued that it will address this item after the issuance of the appealed Decision. Having carefully considered the subject matter of the dispute and upon reviewing the primary Decision and the Zakat Payer's appeal, this Department finds that ZATCA accepted the Zakat Payer's objection. Since the primary Decision confirmed the resolution of the dispute by accepting the Zakat Payer's objection, this Department decided to dismiss the Zakat Payer's appeal regarding this particular item, as the dispute was resolved with ZATCA's agreement to the Zakat Payer's objection.

The Zakat Payer's appeal, regarding (Non-Commercial Creditors) item, is based on the objection to the Primary Department's affirmation of ZATCA's action of not deducting this item, claiming that the amounts in question have not completed the required year. However, ZATCA maintains the validity and correctness of its action and requests the dismissal of the Zakat Payer's appeal and affirmation of the primary Decision. It has been established that, upon reviewing the dispute and examining the case file, the contested amount did not complete the required year and was not proven to finance an asset deducted from the base. Consequently, this Department concludes that the Zakat Payer is entitled to not have this amount added to the zakat base. Therefore, the Department decides to accept the Zakat Payer's appeal and dismiss the primary Decision for the aforementioned Grounds regarding this item.

The Zakat Payer's, regarding the Zakat Payer's appeal concerning (Fixed Assets within Ownership Limits) item, essentially lies in the claim to utilize assets within the ownership limit and to accept all deductions submitted in the zakat declaration for the year in question. Conversely, ZATCA argued that the primary Decision did not address this specific item for the year 2014. Having carefully considered the subject matter of the dispute and upon examining the case file, this Department finds that the Zakat Payer objected to the item of fixed assets within ownership limits before the Primary Department, which, however, did not address this objection, nor was it covered in the Decision's reasoning, rendering the dispute on this matter unresolved. This is to ensure that the Zakat Payer retains the right to litigate at two levels. This Department concludes

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that the case concerning this item should be referred back to the First Department for Determination of Income Tax Violations and Disputes in Dammam for determination on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form by the Zakat Payer/ ... company, CR No. (...), TIN No. (...) against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2020-149), issued in case number (Z-7933-2019), related to zakat assessment for the year 2013.

Second: On Merits:

1. Dismiss the Zakat Payer's appeal regarding the (Import Discrepancies) item, as it has been established that the dispute over this item has been resolved, in accordance with the reasons and justifications set forth in this Decision.

A. The Zakat Payer's appeal regarding (Non-Commercial Creditors) this item is accepted and the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam is overturned, in accordance with the reasons and justifications stated in this Decision.

3. The Zakat Payer's appeal regarding (Fixed Assets within Ownership Limits) item is accepted, the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, to which the case is referred regarding this item for determination, is overturned, in accordance with the reasons and justifications stated in this Decision.

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

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-168
Case No. Z-29472-2020

Keywords
Zakat - Accounts - Labor Wage Discrepancies - Revenue Discrepancies - Advance Payments to Customers

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (IZJ-2020-139) regarding zakat assessment for the years 2015 to 2017. The Zakat Payer's appeal, regarding (Labor Wage Discrepancies) item, is based on the necessity of deducting this item, as it is documented and essential for the operation generating the income subject to zakat. The Department found that ZATCA added SAR (2,304,536) to the profit based on the accounts, considering them wages for non-sponsored labor. The Zakat Payer provided supporting Documents for a total of SAR (1,889,274) of the amount added by ZATCA, thereby establishing the Zakat Payer's right to deduct the documented amount and to add the undocumented amount of SAR (415,262). The Zakat Payer's right, regarding (Revenue Discrepancies) item, involves requesting the addition of expense items to the adjusted revenue discrepancy. The Department noted from the Zakat Payer's appeal that it agreed to the addition of external purchase amounts and customs duties and accepted its appeal on the Labor Wage Discrepancies item for the documented amount of SAR (1,889,274). It was also found, upon reviewing the Zakat Payer's statement of objection, submitted before the Primary Department, that the Zakat Payer did not object to the 'End of Service Provision' and 'Travel Tickets' items, nor did it object to the 'Revenue Discrepancies' item, which ZATCA adjusted in its assessment. The Zakat Payer's appeal, concerning (Advance Payments to Customers) item, is based on the request to deduct the advance payments from Tabuk Plants for paying the due zakat on the entire project. The Department found that the Decision did not address this item. Upon reviewing the statement of objection submitted before the Primary Department, it was noted that the Zakat Payer objected to this item in general, indicating that the advance payments to customers are considered non-rolling current accounts. It has been established that the Zakat Payer raised an objection to this item before the Primary Department, which did not rule on it, leaving the dispute unresolved on this matter, in order to ensure the Zakat Payer's right to appeal at two levels. Therefore, the Department ruled to accept the Zakat Payer's appeal regarding (Labor Wage Discrepancies for 2016) and (Advance Payments to Customers) items and dismiss the (Revenue Discrepancies) item.

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

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Facts:

To consider the appeal filed on .. /.. /... AH corresponding to ../../.... AD by// ..., National ID No. (...), in his capacity as the Appellant Company's attorney pursuant to PoA No. (...) against the Decision of the First Department for Determination of Income Tax Violations and Disputes in jeddah No. (IZJ-2020-139), issued in case No. (Z-6598-2019), regarding the zakat assessment for the years 2015to 2017, filed by the Appellant against ZATCA. The primary Decision stated the following:

First: In form:

Accept the Plaintiff's (... Co.), CR No. (...) claim (....), in form, as it was filed during the legally prescribed period.

Second: On Merits:

1. Confirm the resolution of the dispute between the Plaintiff and the Defendant regarding the 'End of Service Provision and Travel Tickets for the year 2016', in accordance with Grounds of the Decision.
2. Confirm the resolution of the dispute between the Plaintiff and the Defendant regarding the 'Depreciation Discrepancy and Net Fixed Assets for the year 2016', in accordance with Grounds of the Decision.
3. Confirm the resolution of the dispute between the Plaintiff and the Defendant regarding the 'Deductions of Tabuk Plants for the year 2016', in accordance with Grounds of the Decision.
4. Reject the Plaintiff's/ (... Co.) objection to the 'Customs Duties for the year 2016' and settle the dispute regarding 'External Purchases Discrepancy for the year 2016', in accordance with Grounds of the Decision.
5. Reject the Plaintiff's/ (... Co.) objection regarding the 'Rolled-over Contractor Balances for the year 2016' item, in accordance with the Grounds for judgment.
6. Reject the Plaintiff's/ (... Co.) objection regarding the 'Labor Wages and Salaries Discrepancy for the year 2016' item, in accordance with the Grounds for judgment.
7. Reject the Plaintiff's/ (... Co.) objection regarding the 'Adjusted Profits and Losses for the year 2016' item, in accordance with the Grounds for judgment.

Since the aforementioned Decision was not accepted by the Zakat Payer (... Co.), it presented a statement of appeal to the Department, summarized as follows:

The Zakat Payer challenges the primary Decision, claiming that, regarding (Salaries and Wages) item, this amount should be deducted from the base as it is necessary for the operation generating Zakatable income. The Zakat Payer asserts that the payment has been proven and supporting Documents for the payment of non-sponsored and contracted salaries have been submitted. Moreover, the Zakat Payer, regarding (Revenue Discrepancies) item, argues that expense items should be added to the adjusted revenue discrepancy, and that adding other items to the adjusted revenue discrepancy is incorrect. Thus, the amounts that should be added to the item are the discrepancy in external purchases, customs duties, and non-sponsored wages, resulting in a total adjusted net profit (revenue discrepancy) of SAR 686,969 only. The Zakat Payer, concerning (Advance Payments from Customers) item, requests the deduction of advance payments from Tabuk Plants amounting to SAR (2,435,162), as they have fully paid the due zakat on the project. Therefore, the Zakat Payer requests the annulment of the primary Decision for the aforementioned Grounds.

On Wednesday, 07/03/1443 AH, corresponding to 13/10/2021 AD, the Department decided to hold a 10-day e-hearings. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the Primary Department. ZATCA, regarding (Labor Wage Discrepancies for the year 2016) item, calculated the base salary and housing allowance based on the wages shown in the

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social insurance certificate and reconciled them with the account records. The difference shown in the Zakat Payer's submitted statement was adjusted to the net profit. The Zakat Payer did not provide supporting Documents for its claims, leading to the rejection of deduction of these expenses based on Paragraphs (2) of Article (6) and Paragraph (3) of Article (20) of the Implementing Regulations for Zakat Collection. The Zakat Payer's objection, regarding the (Adjusted Profits and Losses for 2016 (Revenue Discrepancies) item, is made to the net profit were addressed in previous items of the Decision, and thus the request was rejected as per the department's Decision. ZATCA, concerning, (Advance Payments from Customers) item, requests that the appeal on this item be rejected formally, as the Decision under appeal does not include it. The issues raised by the Zakat Payer are consistent with those previously submitted and addressed by ZATCA, which requests that no new requests be accepted based on Article (186) of Law of Civil Procedures. Therefore, ZATCA maintains the validity and correctness of its actions and requests rejection of the Zakat Payer's appeal and affirmation of the primary Decision for the aforementioned Grounds.

On Sunday, 09/09/1443 AH corresponding to 10/04/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, the Zakat Payer's appeal, regarding (Labor Wage Discrepancies for the year 2016) item, is based on the deduction of this item from the base as it is documented and necessary for the operation generating zakatable income. However, ZATCA maintains the validity and correctness of its actions and requests the rejection of the Zakat Payer's appeal and affirmation of the primary Decision. Upon reviewing the dispute and examining the case file, it was found that ZATCA had added SAR (2,304,536) to the profit, considering it as wages for non-sponsored labor. The Zakat Payer submitted supporting Documents amounting to SAR (1,889,274) of the total amount added by ZATCA. Therefore, the Zakat Payer is entitled to deduct the documented amount and to add the undocumented amount of SAR (415,262).

The Zakat Payer's appeal, regarding (Revenue Discrepancies) item, is based on its claim to the inclusion of expense items to the adjusted revenue discrepancy, while ZATCA maintains the validity and correctness of its actions and requests rejection of the Zakat Payer's appeal and affirmation of the primary Decision. Upon reviewing the dispute and examining the case file, it was found that the Zakat Payer agreed to include the amounts for external purchases and customs duties. The appeal on Labor Wage Discrepancies item was accepted for the documented amount of SAR (1,889,274). Additionally, the Zakat Payer's statement of objection submitted before the Primary Department indicated no objections to the 'End of Service Provision and Travel Tickets' item. There was also no objection to the 'Revenue Discrepancies' item adjusted by ZATCA on its assessment of the Zakat Payer. Therefore, the Department concludes that the appeal concerning the 'Revenue Discrepancies' should be dismissed.

As for the merits of case, the Zakat Payer's appeal, regarding (Advance Payments from Customers) item, where the Zakat Payer requests the deduction of advance payments from

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Tabuk Plants, claiming that zakat due due on the entire project has been settled, ZATCA maintains the validity and correctness of its actions and requests the rejection of the Zakat Payer's appeal and affirmation of the primary Decision. Upon reviewing the dispute and examining the case file, it was found that the Decision did not address the 'Advance Payments from Customers' item. The Zakat Payer's objection to this item, noting that advance payments to customers are considered non-revolving current accounts, was recorded but not adjudicated by the Primary Department. Since the issue remains unresolved and to ensure the Zakat Payer's right to appeal, the department concludes that the case concerning this item should be returned to the Primary Department for further consideration and resolution on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form by the Zakat Payer/ ... Co, CR No. (...), TIN No. (...) against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah No. (IZJ-2020-139), issued in case number (Z-6598-2019), related to zakat assessment for the years 2015 to 2017 AD.

Second: On Merits:

1. The Zakat Payer's appeal regarding (Labor Wage Discrepancies for the year 2016) item, is accepted and the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah is overturned, in accordance with the reasons and justifications stated in this Decision.
2. The Zakat Payer's appeal regarding (Revenue Discrepancies) item is dismissed, as the Zakat Payer did not submit an objection to this item before the First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with the reasons and justifications stated in this Decision.
3. The Zakat Payer's appeal regarding (Advance Payments from Customers) item is accepted and the Case is referred to the First Department for Determination of Income Tax Violations and Disputes in Jeddah for determination on merits, in accordance with the reasons and justifications stated in this Decision.

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

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Keywords
Zakat – Accounts – Wage and Salary Differences – Short-Term and Long-Term Notes Payable – Investments

Abstract

The Appellant (Zakat Payer) challenges the Primary Decision No. (3) regarding wage and salary differences, short-term and long-term notes payable, and investments items. The Department found, regarding (Wage and Salary Differences) item, that the Zakat Payer did not provide evidence to support its claim, while it did not observe anything requiring correction or commentary based on the arguments presented regarding (Short-Term and Long-Term Notes Payable) item. Concerning (Investments) item, it was noted that the financing for these investments was included in the tax base under the mandatory items. Therefore, if the deduction of these investments is not accepted, the corresponding financing sources must be excluded from the tax base to maintain budgetary balance, which ZATCA failed to do. Therefore, the Department ruled to accept the Zakat Payer's appeal regarding the investment in ... Company, reject the Zakat Payer's appeal regarding the items of wage and salary differences, short-term and long-term notes payable, and investment in (...) Company, and affirm the Department's Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal filed on ../../... /... corresponding to ../.. /.... By ...., National ID No. (...), in his capacity as the legal representative of the company pursuant to its Articles of Association against the Decision of the Tax Appeal Committee No. (1644) of 1438 AH in the case filed by the Appellant against ZATCA. The Decision of the Tax Appeal Committee ruled as follows:

First: In from:

Accept the appeal submitted by (...) company against the Decision No. (3) of 1435 AH of the First Primary Zakat and Tax Objection Committee in Jeddah in form.

Second: On Merits:

1. Dismiss the Zakat Payer's appeal regarding the request to not amend the account results for the years 2007 and 2008, specifically concerning the wage and salary differences of SAR (9,331,341) and SAR (33,026,806) respectively and affirm the primary Decision on this matter.

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2. Dismiss the Zakat Payer's appeal regarding the request to not add notes payable amounting to SAR (41,857,231) and SAR (567,433) to the zakat base for the years 2007 and 2008, respectively and affirm the primary Decision on this matter.
3. Dismiss the Zakat Payer's appeal regarding the request to deduct its investments in ... Company and ... Company from its zakat base for the years 2007 and 2008 and affirm the primary Decision on this matter.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

The Zakat Payer objects to the committee's Decision under appeal, claiming that regarding (Wage and Salary Differences for the years 2007 and 2008) item, the amounts reflected in the social insurance certificate only include the basic salary and housing allowance, while other allowances are not subject to social insurance contributions. The Zakat Payer asserts, regarding (Short-Term and Long-Term Notes Payable) item, that debt precludes zakat, and that zakat is due on capital, profits, reserves, and current accounts receivable, but not on the debts owed by the Zakat Payer. Moreover, the Zakat Payer claims, regarding (Investments) item, investments in .. Company are in securities held in the partners' current accounts and have already been subject to zakat at the company level. Similarly, the shares in ... Company are registered in the name of one of the partners but are recorded in the current account, which is included in the zakat base. Therefore, these investments should be deductible from the zakat base. Based on these Grounds, the Zakat payer requests dismissal of the committee's appealed Decision.

On Wednesday 05/12/1442 AH corresponding to 14/07/2021, the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the Primary Department and also clarified, regarding (Wage and Salary Differences for the years 2007 and 2008) item, that it added the salary differences that exceeded the amounts stated in the social insurance certificate to the net profit, based on ZATCA's Circular No. (30/1) dated 05/03/1408 AH and ZATCA's Circular No. (8123/2) dated 27/12/1401 AH. The Committee supported ZATCA's stance due to the discrepancy between the social insurance certificate and the information provided by the Zakat Payer. ZATCA, concerning (Notes Payable for the years 2007 and 2008) item, included these notes in the Zakat base as beneficial funds, if they had been held for a complete year in application of religious fatwas No. (22665) dated 15/04/1424 AH, fatwa No. (2384/2) dated 30/10/1406 AH, and fatwa No. (3077/2) dated 08/11/1426 AH. Furthermore, ZATCA, regarding (investments for the years 2007 and 2008) item, did not deduct the investment in (...) company, as it was a foreign investment that was not substantiated with documentation, based on Ministerial Decision No. (1005) dated 28/04/1428 AH. Concerning the investment in Al Rajhi Banking Company, ZATCA, based on an extract showing that the stock portfolio was in the name of one of the partners, did not deduct this investment because the company is a separate legal entity from the partners. ZATCA requested that no new Documents be accepted from the Zakat Payer that were not submitted during the audit and objection stages. Therefore, ZATCA maintains validity and correctness of its procedures and requests dismissal of the Zakat Payer's appeal and affirmation of the relevant Tax Appeal Committee's Decision.

On Thursday, 19/05/1443 AH, corresponding to 23/12/2021, the Department, after reviewing the Zakat Payer's appeal regarding the wage and salary differences for the years 2007 and 2008, requested that the Zakat Payer submit supporting Documents that are specifically related to discrepancies between the total wages, according to its accounts, and the total wages as per the social insurance certificate within (15) days of notification. The Department, after reviewing the Zakat Payer's appeal regarding the investments item for the years 2007 and 2008, requested the Zakat Payer, concerning the foreign investment

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in ... company, to provide the financial statements of the invested company, certified by a licensed accountant, which should clarify the Zakat status of the Zakat Payer's share as confirmed by the invested company. Furthermore, the Department requested the Zakat Payer, regarding the investment in ... company registered in the name of one of the partners, to provide justification for not transferring ownership to itself and to submit any supporting Documents, including Decisions made by the partners related to this matter within (15) days of notification.

On Sunday, 13/06/1443 AH corresponding to 16/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, regarding the Zakat Payer's appeal on (Wage and Salary Differences for the years 2007 and 2008) item, the Zakat Payer contends that the amounts reflected in the social insurance certificate only include the basic salary and housing allowance, excluding other allowances not subject to social insurance contributions. ZATCA, on the other hand, requests dismissal of the Zakat Payer's appeal and affirmation of the Zakat and Tax Appeal Committee's Decision. The Department, after examining the case file, noting that the Zakat Payer did not provide evidence to support its claim, and having determined that the reasons provided by the committee for the appealed Decision are sufficient to affirm the Decision, concludes that the Zakat Payer's appeal should be dismissed and the appealed Decision should be affirmed.

Regarding the Zakat Payer's appeal related to (Short-Term and Long-Term Notes Payable) item, the crux of the Zakat Payer's argument is that debt precludes zakat and does not incur zakat liability. Conversely, ZATCA requests dismissal of the Zakat Payer's appeal and affirmation of the Zakat and Tax Appeal Committee's Decision. Having reviewed the Zakat Payer's appeal and considering that the general principle for zakat liability is based on the completion of a year on the opening balance, and noting that the Zakat Payer has not disputed the completion of this year but rather contested the principle of whether debts are subject to zakat. Since notes payable are considered one of the sources of funding subject to zakat, the Department can rely on the reasons provided in the appealed Decision without adding new information, if it deems that these reasons are sufficient and comprehensive. The Department's affirmation of the Decision is based on the sufficiency of the reasons provided, confirming that there are no additional challenges that warrant further response beyond what was already included. Given that the appealed Decision aligns with the valid and adequate reasons provided and that the committee addressed the core dispute and reached a conclusion supported by its findings, and since the Department did not identify any need for further consideration or commentary based on the arguments presented, the Department concludes dismissal of the appeal and affirm the result reached in the appealed Decision.

The Zakat Payer, regarding (Investments) item, argues that additional zakat should not be levied on the same funds to avoid double zakat liability, while ZATCA requests dismissal of the Zakat Payer's appeal and affirmation of the Zakat and Tax Appeal Committee's Decision. Having reviewed the Zakat Payer's appeal and examined the case

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file, it is evident that the Zakat Payer's appeal pertains to two types of investments. The Zakat Payer, regarding foreign investment in ... Company, did not provide evidence of the zakat due on such investments in the investment country as required by the relevant regulations and given that the reasons cited by the committee that issued the appealed Decision are sufficient to affirm this Decision regarding the foreign investment in Company (A), this Department therefore dismisses the Zakat Payer's appeal and affirms the result reached in the appealed Decision. The Department, with respect to the Zakat Payer's investment in (B) Company, after examining the case file and carefully considering the matter in dispute, finds that the financing for these investments is included in the zakat base under mandatory items. Consequently, if the deduction of these investments is not allowed, the corresponding funding sources must be excluded from the zakat base to ensure a balanced budget. As ZATCA failed to do so, the Zakat Payer's appeal is hereby accepted, and the appealed Decision concerning the Zakat Payer's investment in ... Company is overturned.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form submitted by the Zakat Payer/ (...) Company, CR (.....), TIN (....), in form against the Tax Appeal Committee's Decision No. (1644) of 1438 AH.

Second: On Merits:

1. Dismiss the Zakat Payer's appeal concerning (Wage and Salary Differences) item and affirm the Tax Appeal Committee's Decision, according to Grounds and reasons stated herein.
2. Dismiss the Zakat Payer's appeal concerning (Short-Term and Long-Term Notes Payable) item and affirm the Tax Appeal Committee's Decision, according to Grounds and reasons stated herein.
3. Regarding (Investments) item:
   A. Dismiss the Zakat Payer's appeal concerning investment in (A) Company and affirm the Tax Appeal Committee's Decision, according to Grounds and reasons stated herein.
   B. Dismiss the Zakat Payer's appeal concerning investment in (B) Company and affirm the Tax Appeal Committee's Decision, according to Grounds and reasons stated herein.

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Decision No. IR-2022-93
Case No. Z-30823-2020

Keywords
Zakat – Accounts – Subjection of Charitable Waqf Proceeds to Zakat – Incomplete Full Year

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (IFR-2020-85), where it lies in the objection to ZATCA's action of subjecting the proceeds of the charitable waqf to zakat. The Department, after reviewing the dispute and examining the case file, finds that zakat is not due on the proceeds of a charitable waqf and confirms that the waqf in question was established on 01/07/1431 AH, corresponding to 13/06/2010 AD. This Department does not find any Grounds for reconsideration or further commentary based on the information presented by ZATCA. Therefore, the Department accepts Zakat Payer's appeal and overturns Primary Department's Decision.

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal filed on ../../... /...., corresponding to .. /.. /... /../.. by/ ..., National ID No. (...), in his capacity as the attorney of the Appellant Company pursuant to PoA No. (...) against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh No. (IFR-2020-85), issued in case No. (Z-4698-2019), regarding the zakat assessment for the year 2011, filed by the Appellant against ZATCA. The primary Decision stated the following:

Dismiss objection filed by Plaintiff (... Company), TIN (…) to Defendant's (ZATCA) Decision regarding the imposition of zakat on the Plaintiff Company for the year in question.

Dissatisfied with this Decision, Zakat Payer (… Company) submitted a statement of appeal summarized as follows:

The Zakat Payer challenges the appealed primary Decision, arguing that the Primary Department did not consider the waiver of the company by the endower (...) -owner of the Appellant Company to waqf on 01/07/1431 AH, corresponding to 13/06/2010 AD, which was less than three months after the waqf were officially recorded on 13/05/1431 AH. A signed copy of the waiver in favor of the waqf was attached to the case file. Therefore, the Zakat Payer contends that the date on which the company ceased to be subject to zakat is the date of the waiver to the waqf. Therefore, ... Company should not be subject to zakat from the date of the waiver, 01/07/1431 AH, corresponding to 13/06/2010 AD. Additionally, Zakat on trading goods requires the completion of a full year and is only due

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after completing the same period, which ZATCA failed to do by imposing zakat on the company for the period from 01/01/2011 to 18/05/2011, , despite the lack of a completed full year, thus violating Islamic law and Paragraph (4) of Article (15) of the Implementing Regulations for Zakat Collection issued in 1438 AH. Consequently, the Zakat Payer requests dismissal of the appealed Decision for the aforementioned Grounds.

When the Department decided to open the pleadings, ZATCA presented a memorandum of reply dated 01/11/1442 AH corresponding to 10/06/2021 addressing the Zakat Payer's appeal, summarized as follows: ZATCA affirms its position presented before the Primary Department, stating that its Decision is consistent with Fatwa No. (26272) dated 30/10/1435 AH, ZATCA's letter No. (1437/16/1376) and Paragraph (1/a) of Article (9) of the Implementing Regulations for Zakat Collection issued in 1438 AH. Since the waqf deed was issued on 18/05/2011 AD, the proceeds are not subject to zakat from the date of the waqf deed but only from that date onward. ZATCA acknowledges waqf for zakat purposes from the date it is documented with the relevant authorities. The letter submitted by the Zakat payer to the Primary Department explicitly stated the exclusion of the company from waqf. Therefore, ZATCA maintains the validity and correctness of its actions and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision for the aforementioned Grounds.

On Tuesday, 29/06/1443 AH corresponding to 01/02/2022 AD, the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On Thursday, 30/07/1443 AH corresponding to 03/03/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, the Zakat Payer's appeal challenges ZATCA's action of subjecting the charitable waqf proceeds to zakat, while ZATCA, on the other hand, maintains the validity and correctness of its actions and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision. Having carefully considered the subject matter of the dispute and examined the case file; the Department finds that zakat is not due on the proceeds of charitable waqf. The Department verified that waqf of the funds in question was officially declared on 01/07/1431 AH, corresponding to 13/06/2021 and notes that there are no Grounds for reconsideration or additional commentary based on the information provided by ZATCA. Consequently, it is determined that the Zakat Payer is not subject to zakat, concluding to accept the appeal and dismiss the primary Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer (... Company), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes

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in Riyadh Decision No (IFR-2020-85) rendered in Case No. (Z-4698-2019) regarding zakat assessment for 2011.

Second: On Merits: The Zakat Payer's appeal is accepted and the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh is overturned, in accordance with the reasons and justifications stated herein.

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

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Decision No. IR-2022-94
Case No. Z-30935-2020

Keywords
Zakat – Accounts – Incomplete Disclosure of Case Facts – Subjection of Charitable Waqf Proceeds to Zakat – Incomplete Full Year

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (IFR-2020-324) regarding zakat assessment for 2010, where it lies in the objection to ZATCA's action of subjecting the proceeds of the charitable waqf to zakat. The Department, after reviewing the dispute and examining the case file, finds that zakat is not due on the proceeds of a charitable waqf and confirms that the waqf in question was established on 01/07/1431 AH corresponding to 13/06/2010 AD, which precedes the completion of the full year relevant to the assessment period. This Department does not find any Grounds for reconsideration or further commentary based on the information presented by ZATCA. Therefore, the Department ruled to accept the appeal and dismiss the primary Decision.

Instruments:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal filed on ../../... /... corresponding to ../.. /../.. by/ ..., National ID No. (...), in his capacity as the attorney of the Appellant Company pursuant to PoA No. (...) against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh No. (IFR-2020-324), issued in case No. (Z-4684-2019), regarding the zakat assessment for the year 2011, filed by the Appellant against ZATCA. The primary Decision stated the following:

First: Dismiss objection filed by Plaintiff (... Company), TIN (…) to Defendant's (ZATCA) Decision regarding the imposition of zakat on the Plaintiff Company for the year in question.

Second: Proof of the resolution of the dispute between the Plaintiff/ ... Company (TIN No. ....) and the Defendant/ ZATCA concerning import discrepancies, as the subject of the case.

Third: Proof of the resolution of the dispute between the Plaintiff/ ... Company (TIN No. ....) and the Defendant/ ZATCA concerning the loans and other sources of financing item, as the subject of the case.

Fourth: Proof of the resolution of the dispute between the Plaintiff/ ... Company (TIN No. ....) and the Defendant/ ZATCA concerning the relevant parties item, as the subject of the case.

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Fifth: Dismiss objection filed by Plaintiff (... Company), TIN (…) to Defendant's (ZATCA) Decision regarding fixed assets item, as the subject of the case.

Dissatisfied with this Decision, Zakat Payer (… Company) submitted a statement of appeal summarized as follows:

The Zakat Payer challenges the appealed primary Decision, claiming that the primary Decision is flawed in form in terms of the assessment reference number and the failure to include all the Facts of the case. Furthermore, the Primary Department did not consider the transfer of ownership by the endower (...)—owner of the Appellant Company to waqf on 01/07/1431 AH, corresponding to 13/06/2010 AD, which was less than three months after the waqf were officially recorded on 13/05/1431 AH. A signed copy of the waiver in favor of the waqf was attached to the case file. Therefore, the Zakat Payer contends that the date on which the company ceased to be subject to zakat is the date of the waiver to the waqf. Therefore, ... Manufacturing Company should not be subject to zakat from the date of the waiver, 01/07/1431 AH, corresponding to 13/06/2010 AD. Consequently, the Zakat Payer requests dismissal of the appealed primary Decision for the aforementioned Grounds.

When the Department decided to open the pleadings, ZATCA presented a memorandum of reply dated 01/11/1442 AH corresponding to 10/06/2021 addressing the Zakat Payer's appeal, summarized as follows: ZATCA affirms its position presented before the Primary Department, stating that its Decision is consistent with Fatwa No. (26272) dated 30/10/1435 AH, ZATCA's letter No. (1437/16/1376) and Paragraph (1/a) of Article (9) of the Implementing Regulations for Zakat Collection issued in 1438 AH. Since the waqf deed was issued on 18/05/2011 AD, the proceeds are not subject to zakat from the date of the waqf deed but only from that date onward. ZATCA acknowledges waqf for zakat purposes from the date it is documented with the relevant authorities. The letter submitted by the Zakat Payer to the Primary Department explicitly stated the exclusion of the company from waqf. Therefore, ZATCA maintains the validity and correctness of its actions and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision for the aforementioned Grounds.

On Tuesday, 29/06/1443 AH corresponding to 01/02/2022 AD, the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On Thursday, 30/07/1443 AH corresponding to 03/03/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, the Zakat Payer's appeal challenges ZATCA's action of subjecting the charitable waqf proceeds to zakat, while ZATCA, on the other hand, maintains the validity and correctness of its actions and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision. Having carefully considered the subject matter of the dispute and examined the case file; the Department finds that zakat is not due on the proceeds of charitable waqf. The Department verified that waqf of the funds in question was officially declared on 01/07/1431 AH corresponding to 13/06/2021,

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which precedes the completion of the full year relevant to the assessment period. Moreover, the Department notes that there are no Grounds for reconsideration or additional commentary based on the information provided by ZATCA, so it concludes that the company's profits are not subject to zakat from the date of waqf's declaration. Therefore, zakat is not due on the Appellant.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer (... Company), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (IFR-2020-324) rendered in Case No. (Z-4684-2019) regarding zakat assessment for 2010.

Second: On Merits:

The Zakat Payer's appeal is accepted and the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh is overturned, in accordance with the reasons and justifications stated herein.

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

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Keywords
Zakat – Accounts – Expiry of Statutory Period – Non-Receipt of Amendment Letter via Email

Abstract

The Appellant (Zakat payer) challenges the primary Decision No. (IZD-2020-179) regarding zakat assessment for the years 2015 and 2016, where it is based on the claim that it did not receive the amendment letter via email from ZATCA and therefore could not file an objection. The Department, upon careful consideration of the dispute and after examining the case file, found that the Appellant confirmed in its appeal that it did not initially file an objection against ZATCA before filing the case before the Primary Department. Consequently, the primary Decision regarding this objection is deemed correct. The Zakat Payer's claim of not receiving the amendment letter via email does not undermine validity of the appealed Decision. Therefore, the Department dismisses the appeal and upholds Primary Department's Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal presented on././. corresponding to ../.../.... By/ (...), National ID No. (...), in his capacity as the attorney of the Appellant Company pursuant to PoA No. (...) against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2020-179), issued in case No. (Z-10195-2019), regarding the zakat assessment for the years 2015 and 2016, filed by the Appellant against ZATCA. The primary Decision stated the following:

Dismiss the Plaintiff's/ (... Co.) case filed against the Defendant C.R. No. (...) in form due to its failure to object to zakat assessment for the years 2015 and 2016

Since this Decision was not accepted by Zakat Payer (.... company), he submitted a statement of appeal, which contained the following:

The Zakat Payer challenges the appealed primary Decision, arguing that ZATCA would have rejected any objection filed after the statutory period, even if the technical error in the website had been corrected after the case was filed, implying that filing the objection to ZATCA after initiating the case contradicts the established practice, as ZATCA does not consider reasons for a delayed objection, which are administrative issues that prevented access to the correspondence system. Despite the amendment letter being in the correspondence system, it was not received in the Zakat Payer's email. Therefore, the Zakat Payer requests dismissal of the primary Decision for the aforementioned Grounds.

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On Wednesday 07/03/1443 AH corresponding to 13/10/2021, the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the Primary Department, as it was in accordance with provisions of Paragraph (1) of Article (22) of the Implementing Regulations for Zakat Collection issued in 1438 AH. ZATCA reaffirms its position presented before the Primary Department, noting that the Zakat Payer's claims are consistent with what it previously submitted and addressed. Therefore, ZATCA maintains correctness and validity of its procedures and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision for the aforementioned Grounds.

On Tuesday, 18/04/1443 AH corresponding to 23/11/2021, the Department, after reviewing the Zakat Payer's appeal, requested that the Zakat Payer provide evidence of its inability to submit its objection to ZATCA within (7) days of its date. However, the Zakat Payer did not provide the requested documentation.

On Sunday, 01/05/1443 AH corresponding to 05/12/2021, the Department, after reviewing the case file, requested for the second time that the Zakat Payer provide justification for not filing an objection to ZATCA before filing the case before the Primary Department and also provide evidence of its inability to submit its objection to ZATCA within (3) days of its date. The Department requested that ZATCA provide evidence demonstrating that the Zakat Payer was notified of the assessment and explain the procedure used in notifying of its Decision within (3) days of its date. Subsequently, a collection of Documents was submitted by both parties to the case.

On Sunday, 20/06/1443 AH corresponding to 23/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, the Department, after reviewing the case file, notes that the Zakat Payer's appeal is based on the non-receipt of the amendment letter via email from ZATCA, thereby preventing it from submitting an objection. Conversely, ZATCA maintains the validity and correctness of its procedures and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision. Having carefully considered the subject matter of the dispute and examined the case file, the Department finds that the Zakat Payer confirmed in its appeal that it did not initially submit an objection to ZATCA before filing the case before the Primary Department, thereby confirming correctness of the conclusion concluded by the Primary Department. The Zakat Payer's claim of not receiving the amendment letter via email does not undermine validity of the appealed Decision. It is well-established in jurisprudence that filing a complaint with the issuing authority is binding before seeking judicial review, as outlined in Rules of Tax Dispute and Violation Committee Procedures. The Department is obligated to first verify procedural compliance before addressing the substantive issues of the case. Since the Zakat Payer did not file an objection to ZATCA before initiating its claim before the Primary Department, which concludes that the Zakat Payer filed its case prematurely due

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to its failure to objection before the administrative authority. Therefore, this Department dismisses the Zakat Payer's appeal and affirms the primary Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal filed by the Zakat Payer/ (...) Company, CR (.....), TIN (....), in form against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2020-179), issued in case number (Z-10195-2019), related to zakat assessment for the years 2015 and 2016 AD.

Second: On Merits:

The Zakat Payer's appeal is rejected and the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam is upheld, in accordance with the reasons and justifications stated herein.

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

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Keywords

Zakat – Accounts – Expiry of Statutory Period – Failure to Notify at the Correct Address – Absence of Legal Personality – Acceptance of Appeal – Cancellation of the Primary Decision

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (IZJ-2021-963) regarding the zakat assessment for the year 2015 AD, where it lies that the establishment had no legal status during the assessment year in question. The Appellate Department found that there was no legal entity available for the assessment for the year in question, as the establishment that was assessed had been transformed into a different legal entity. Consequently, the Department concludes that ZATCA's assessment was incorrect and invalid, as it was not issued against a zakat payer. This Department therefore finds that ZATCA's Decision is vitiated by a defect in reasoning, rendering it an invalid administrative Decision due to the absence of one of its essential elements. This does not affect the fact that the regulation provides for the protection of ZATCA's assessment Decision from being challenged by objection. Such protection does not extend to administrative Decisions that are vitiated by a defect in reasoning. This provision applies only if the Decision is valid and all required legal components are met. Therefore, the Department ruled to accept the appeal and cancel the primary Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal presented on ../../.... AH corresponding to ../../.... AD by ..., National ID No. (...), in his capacity as the owner of the Appellant Establishment against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah No. (IZJ-2021-963), issued in case No. (Z-42117-2021), regarding the zakat assessment for the years 2015, filed by the Appellant against ZATCA. The primary Decision stated the following:

Dismiss the case filed by the Plaintiff/ ..., National ID No. (...) against the Defendant/ ZATCA in form, according to the reasons outlined.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

The Zakat Payer challenges the appealed primaey Decision, claiming that it did not file an objection within the statutory period because it was not notified of the assessment at the correct address. Additionally, the Zakat Payer closed all records for the establishment

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and transferred them to branches of another company, so it no longer holds commercial records or licenses for the assessment period and has no legal address at that time. The Zakat Payer also argues that ZATCA's action of assessing both the company and the establishment simultaneously constitutes an improper duplication of zakat assessments. Therefore, the Zakat Payer requests dismissal of the appealed primary Decision and a substantive review of its case for the Grounds provided.

On Monday 04/08/1443 AH corresponding to 07/03/2022, the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the Primary Department and stating that the Zakat Payer did not file an objection within the statutory period, thereby rendering ZATCA's Decision immune from challenge due to the lapse of time, in accordance with Article (2) of Rules of Tax Dispute and Violation Committee Procedures and Paragraph (1) of Article (3) of Rules of Tax Dispute and Violation Committee Procedures. ZATCA requested the Department not accept any new requests from the Zakat Payer in accordance with Article (168) of Law of Civil Procedures. Therefore, ZATCA maintains correctness and validity of its actions and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision for the aforementioned Grounds.

On Thursday, 21/08/1443 AH corresponding to 24/03/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, the Zakat Payer's appeal is based on the claim that the establishment had no legal status during the assessment year in question, while ZATCA, on the other hand, requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision. The Department, upon reviewing the dispute concerning the year 2015 and after examining the case file, found that there was no legal entity available for the assessment for the year in question, as the establishment that was assessed had been transformed into a different legal entity. Consequently, the Department concludes that ZATCA's assessment was incorrect and invalid, as it was not issued against a zakat payer. This Department therefore finds that ZATCA's Decision is vitiated by a defect in reasoning, rendering it an invalid administrative Decision due to the absence of one of its essential elements. This does not affect the fact that the regulation provides for the protection of ZATCA's assessment Decision from being challenged by objection. Such protection does not extend to administrative Decisions that are vitiated by a defect in reasoning. This provision applies only if the Decision is valid and all required legal components are met. Therefore, this Department concludes to cancel the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

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First: Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No (IZJ-2021-963) rendered in Case No. (Z-42117-2021) regarding tax assessment for 2015.

Second: On Merits:

The Zakat Payer's appeal is accepted, the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah is annulled, and ZATCA's assessment in the case is canceled, in accordance with the reasons and justifications stated herein.

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

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Keywords
Zakat – Accounts – Failure to Notify at the Correct Address – Absence of Legal Person – Acceptance of Appeal – Cancellation of the Primary Decision

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (IZJ-2021-964) regarding the zakat assessment for the year 2016 AD, where it lies that the establishment had no legal status during the assessment year in question. The Appellate Department found that there was no legal entity available for the assessment for the year in question, as the establishment that was assessed had been transformed into a different legal entity. Consequently, the Department concludes that ZATCA's assessment was incorrect and invalid, as it was not issued against a zakat payer. This Department therefore finds that ZATCA's Decision is vitiated by a defect in reasoning, rendering it an invalid administrative Decision due to the absence of one of its essential elements. This does not affect the fact that the regulation provides for the protection of ZATCA's assessment Decision from being challenged by objection. Such protection does not extend to administrative Decisions that are vitiated by a defect in reasoning. This provision applies only if the Decision is valid and all required legal components are met. Therefore, the Department ruled to accept the appeal and cancel the primary Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal presented on ../../.... AH corresponding to ../../.... AD by ..., National ID No. (...), in his capacity as the owner of the Appellant Establishment against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah No. (IZJ-2021-964), issued in case No. (Z-42229-2021), regarding the zakat assessment for the years 2016, filed by the Appellant against ZATCA. The primary Decision stated the following:

Dismiss the case filed by the Plaintiff/ ..., National ID No. (...) against the Defendant/ ZATCA in form, according to the reasons outlined.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

The Zakat Payer challenges the appealed primaey Decision, claiming that it did not file an objection within the statutory period because it was not notified of the assessment at the correct address. Additionally, the Zakat Payer closed all records for the establishment and transferred them to branches of another company, so it no longer holds commercial

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records or licenses for the assessment period and has no legal address at that time. The Zakat Payer also argues that ZATCA's action of assessing both the company and the establishment simultaneously constitutes an improper duplication of zakat assessments. Therefore, the Zakat Payer requests dismissal of the appealed primary Decision and a substantive review of its case for the Grounds provided.

On Monday 04/08/1443 AH corresponding to 07/03/2022, the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the Primary Department and stating that the Zakat Payer did not file an objection within the statutory period, thereby rendering ZATCA's Decision immune from challenge due to the lapse of time, in accordance with Article (2) of Rules of Tax Dispute and Violation Committee Procedures and Paragraph (2) of Article (3) of Rules of Tax Dispute and Violation Committee Procedures. Moreover, the Zakat Payer did not file its objection before the Primary Department within the statutory period, thereby rendering ZATCA's Decision immune from challenge, in accordance with Paragraph (2) of Article (3) of Rules of Tax Dispute and Violation Committee Procedures. ZATCA requested the Department not accept any new requests from the Zakat Payer in accordance with Article (168) of Law of Civil Procedures. Therefore, ZATCA maintains correctness and validity of its actions and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision for the aforementioned Grounds.

On Thursday, 21/08/1443 AH corresponding to 24/03/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, the Zakat Payer's appeal is based on the claim that the establishment had no legal status during the assessment year in question, while ZATCA, on the other hand, requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision. The Department, upon reviewing the dispute concerning the year 2016 and after examining the case file, found that there was no legal entity available for the assessment for the year in question, as the establishment that was assessed had been transformed into a different legal entity. Consequently, the Department concludes that ZATCA's assessment was incorrect and invalid, as it was not issued against a zakat payer. This Department therefore finds that ZATCA's Decision is vitiated by a defect in reasoning, rendering it an invalid administrative Decision due to the absence of one of its essential elements. This does not affect the fact that the regulation provides for the protection of ZATCA's assessment Decision from being challenged by objection. Such protection does not extend to administrative Decisions that are vitiated by a defect in reasoning. This provision applies only if the Decision is valid and all required legal components are met. Therefore, this Department concludes to cancel the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

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Decision

First: Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No (IZJ-2021-964) rendered in Case No. (Z-42229-2021) regarding tax assessment for 2016.

Second: On Merits:

The Zakat Payer's appeal is accepted, the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah is annulled, and ZATCA's assessment in the case is canceled, in accordance with the reasons and justifications stated herein.

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

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Keywords
Zakat – Accounts – Failure to Notify at the Correct Address – Absence of Legal Person – Acceptance of Appeal – Cancellation of the Primary Decision

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (IZJ-2021-965) regarding the zakat assessment for the year 2017 AD, where it lies that the establishment had no legal status during the assessment year in question. The Appellate Department found that there was no legal entity available for the assessment for the year in question, as the establishment that was assessed had been transformed into a different legal entity. Consequently, the Department concludes that ZATCA's assessment was incorrect and invalid, as it was not issued against a zakat payer. This Department therefore finds that ZATCA's Decision is vitiated by a defect in reasoning, rendering it an invalid administrative Decision due to the absence of one of its essential elements. This does not affect the fact that the regulation provides for the protection of ZATCA's assessment Decision from being challenged by objection. Such protection does not extend to administrative Decisions that are vitiated by a defect in reasoning. This provision applies only if the Decision is valid and all required legal components are met. Therefore, the Department ruled to accept the appeal and cancel the primary Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal presented on 29/02/1443 AH corresponding to 06/10/2021 AD by ..., National ID No. (...), in his capacity as the owner of the Appellant Establishment against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah No. (IZJ-2021-965), issued in case No. (Z-42246-2021), regarding the zakat assessment for the years 2017, filed by the Appellant against ZATCA. The primary Decision stated the following:

Dismiss the case filed by the Plaintiff/ ..., National ID No. (...) against the Defendant/ ZATCA in form, according to the reasons outlined.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

The Zakat Payer challenges the appealed primaey Decision, claiming that it did not file an objection within the statutory period because it was not notified of the assessment at the correct address. Additionally, the Zakat Payer closed all records for the establishment and transferred them to branches of another company, so it no longer holds commercial

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records or licenses for the assessment period and has no legal address at that time. The Zakat Payer also argues that ZATCA's action of assessing both the company and the establishment simultaneously constitutes an improper duplication of zakat assessments. Therefore, the Zakat Payer requests dismissal of the appealed primary Decision and a substantive review of its case for the Grounds provided.

On Monday 04/08/1443 AH corresponding to 07/03/2022, the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the Primary Department and stating that the Zakat Payer did not file an objection within the statutory period, thereby rendering ZATCA's Decision immune from challenge due to the lapse of time, in accordance with Article (2) of Rules of Tax Dispute and Violation Committee Procedures and Paragraph (1) of Article (3) of Rules of Tax Dispute and Violation Committee Procedures. Moreover, the Zakat Payer did not file its objection before the Primary Department within the statutory period, thereby rendering ZATCA's Decision immune from challenge, in accordance with Paragraph (1) of Article (3) of Rules of Tax Dispute and Violation Committee Procedures. ZATCA requested the Department not accept any new requests from the Zakat Payer in accordance with Article (168) of Law of Civil Procedures. Therefore, ZATCA maintains correctness and validity of its actions and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision for the aforementioned Grounds.

On Thursday, 21/08/1443 AH corresponding to 24/03/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, the Zakat Payer's appeal is based on the claim that the establishment had no legal status during the assessment year in question, while ZATCA, on the other hand, requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision. The Department, upon reviewing the dispute concerning the year 2017 and after examining the case file, found that there was no legal entity available for the assessment for the year in question, as the establishment that was assessed had been transformed into a different legal entity. Consequently, the Department concludes that ZATCA's assessment was incorrect and invalid, as it was not issued against a zakat payer. This Department therefore finds that ZATCA's Decision is vitiated by a defect in reasoning, rendering it an invalid administrative Decision due to the absence of one of its essential elements. This does not affect the fact that the regulation provides for the protection of ZATCA's assessment Decision from being challenged by objection. Such protection does not extend to administrative Decisions that are vitiated by a defect in reasoning. This provision applies only if the Decision is valid and all required legal components are met. Therefore, this Department concludes to cancel the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

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Decision

First: Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No (IZJ-2021-965) rendered in Case No. (Z-42246-2021) regarding tax assessment for 2017.

Second: On Merits:

The Zakat Payer's appeal is accepted, the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah is annulled, and ZATCA's assessment in the case is canceled, in accordance with the reasons and justifications stated herein.

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

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Keywords

Zakat – Accounts – Failure to Notify at the Correct Address – Absence of Legal Person – Acceptance of Appeal – Cancellation of the Primary Decision

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (IZJ-2021-966) regarding the zakat assessment for the year 2018 AD, where it lies that the establishment had no legal status during the assessment year in question. The Appellate Department found that there was no legal entity available for the assessment for the year in question, as the establishment that was assessed had been transformed into a different legal entity. Consequently, the Department concludes that ZATCA's assessment was incorrect and invalid, as it was not issued against a zakat payer. This Department therefore finds that ZATCA's Decision is vitiated by a defect in reasoning, rendering it an invalid administrative Decision due to the absence of one of its essential elements. This does not affect the fact that the regulation provides for the protection of ZATCA's assessment Decision from being challenged by objection. Such protection does not extend to administrative Decisions that are vitiated by a defect in reasoning. This provision applies only if the Decision is valid and all required legal components are met. Therefore, the Department ruled to accept the appeal and cancel the primary Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal presented on 29/02/1443 AH corresponding to 06/10/2021 AD by ..., National ID No. (...), in his capacity as the owner of the Appellant Establishment against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah No. (IZJ-2021-966), issued in case No. (Z-42263-2021), regarding the zakat assessment for the years 2018, filed by the Appellant against ZATCA. The primary Decision stated the following:

Dismiss the case filed by the Plaintiff/ ..., National ID No. (...) against the Defendant/ ZATCA in form, according to the reasons outlined.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

The Zakat Payer challenges the appealed primaey Decision, claiming that it did not file an objection within the statutory period because it was not notified of the assessment at the correct address. Additionally, the Zakat Payer closed all records for the establishment and transferred them to branches of another company, so it no longer holds commercial

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records or licenses for the assessment period and has no legal address at that time. The Zakat Payer also argues that ZATCA's action of assessing both the company and the establishment simultaneously constitutes an improper duplication of zakat assessments. Therefore, the Zakat Payer requests dismissal of the appealed primary Decision and a substantive review of its case for the Grounds provided.

On Monday 04/08/1443 AH corresponding to 07/03/2022, the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the Primary Department and stating that the Zakat Payer did not file an objection within the statutory period, thereby rendering ZATCA's Decision immune from challenge due to the lapse of time, in accordance with Article (2) of Rules of Tax Dispute and Violation Committee Procedures and Paragraph (1) of Article (3) of Rules of Tax Dispute and Violation Committee Procedures. Moreover, the Zakat Payer did not file its objection before the Primary Department within the statutory period, thereby rendering ZATCA's Decision immune from challenge, in accordance with Paragraph (1) of Article (3) of Rules of Tax Dispute and Violation Committee Procedures. ZATCA requested the Department not accept any new requests from the Zakat Payer in accordance with Article (168) of Law of Civil Procedures. Therefore, ZATCA maintains correctness and validity of its actions and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision for the aforementioned Grounds.

On Thursday, 21/08/1443 AH corresponding to 24/03/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, the Zakat Payer's appeal is based on the claim that the establishment had no legal status during the assessment year in question, while ZATCA, on the other hand, requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision. The Department, upon reviewing the dispute concerning the year 2018, and after examining the case file, found that there was no legal entity available for the assessment for the year in question, as the establishment that was assessed had been transformed into a different legal entity. Consequently, the Department concludes that ZATCA's assessment was incorrect and invalid, as it was not issued against a zakat payer. This Department therefore finds that ZATCA's Decision is vitiated by a defect in reasoning, rendering it an invalid administrative Decision due to the absence of one of its essential elements. This does not affect the fact that the regulation provides for the protection of ZATCA's assessment Decision from being challenged by objection. Such protection does not extend to administrative Decisions that are vitiated by a defect in reasoning. This provision applies only if the Decision is valid and all required legal components are met. Therefore, this Department concludes to cancel the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

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Decision

First: Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No (IZJ-2021-966) rendered in Case No. (Z-42263-2021) regarding tax assessment for 2018.

Second: On Merits:

The Zakat Payer's appeal is accepted, the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah is annulled, and ZATCA's assessment in the case is canceled, in accordance with the reasons and justifications stated herein.

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

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Keywords
Zakat - Estimated - Financial Crisis - Inability to Pay - Rejection of Appeal - Affirmation of the Primary Decision

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (ISR-2020-236) concerning the zakat assessment for the year 1439 AH, where it lies on objection to the estimated assessment that is the subject of the case, citing an inability to pay. The Department found that the Zakat Payer did not provide sufficient evidence to warrant reconsideration of ZATCA's Decision to impose the estimated assessment and further determined that the conclusion reached by the original Decision-making body was correct, and that the reasons underlying its Decision were sufficient for affirmation. Therefore, the Department ruled to accept the appeal in form and affirm the primary Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

For consideration of the appeal submitted on ../../.... AH Corresponding to ../../.... by/ (...) ....., ID No. (.....) In his capacity as the owner of the Appellant Establishment against the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh No. (ISR-2020-236), issued in case No. (Z-5200-2020), regarding the zakat assessment for the year 1439 AH, filed by the Appellant against ZATCA. The primary Decision stated the following:

Accept the Case filed by Plaintiff/(....), holding National ID No. (.....), Owner of (... Est.), C.R No. (...) against the Defendant/ ZATCA in form and dismiss the same in merits.

Since the aforementioned Decision was not accepted by the Zakat Payer (... Est.), it presented a statement of appeal to the Department, summarized as follows:

The Zakat Payer objects to the appealed primary Decision, arguing that the establishment is experiencing a severe financial crisis and is unable to make the payment and requests, at the very least, a refund of the previous invoice amount of SAR (67,337.95), which was later increased to SAR (87,997.08). Accordingly, the Zakat Payer requests to overturn the appealed primary Decision for the aforementioned Grounds.

On Tuesday 09/01/1443 AH corresponding to 17/08/2021, the Department decided to hold a 10-day e-hearings. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, summarized as follows: ZATCA maintains its arguments raised before the Primary Department, noting that the Zakat Payer's

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arguments, which were already addressed, do not differ from those previously submitted. ZATCA affirms the primary Decision based on the reasons and justifications therein and requests that the Department reject any new requests from the Zakat Payer in accordance with Article (168) of Law of Civil Procedures. Accordingly, ZATCA maintains that its actions were correct and proper and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision for the aforementioned Grounds.

On Thursday, 17/06/1443 AH, corresponding to 20/01/2022, the Department, upon reviewing the matter of the dispute, noted that ZATCA, in its amendment letter, based its calculation on the Zakat Payer's VAT sales. Given a profit margin of 15%, the zakat base amounts to SAR (1,919,958), the amendment letter, however, included an additional amount added to the base, totaling SAR (1,599,965). Accordingly, the Department requests clarification on the source and calculation of this additional amount, as well as submission of the Zakat Payer's declaration for the year in question. within (7) days from that date. Accordingly, ZATCA provided a Reply that included the following, in summary: ZATCA conducted an estimated assessment of the Zakat Payer based on undeclared VAT sales. Consequently, ZATCA acted in accordance with Paragraph (6/a-b) of Article (13) of the Implementing Regulations for Zakat Collection issued in 1438 AH and further asserts the validity of its actions, citing Paragraph (8) of Article (13) of the same regulations.

On Sunday, 27/06/1443 AH, corresponding to 30/01/2022, after reviewing ZATCA's response to the Department's requests from the previous hearing, it was noted that ZATCA's response did not include the zakat declaration for the year in question. Therefore, the Department hereby requests for the second time that ZATCA provide the zakat declaration submitted by the Zakat Payer for the disputed year. within (5) days from that date. A memorandum was received from ZATCA, which stated that the Zakat Payer had not submitted its zakat declaration for the year in question. As a result, ZATCA conducted an estimated assessment, as detailed in the second memorandum of reply.

On Sunday, 24/08/1443 AH corresponding to 27/03/2022, the Department, after reviewing the case file, requested that the Zakat Payer provide its zakat declaration for the year in question within (5) days of its date. However, Zakat Payer did not provide the required Documents.

On Wednesday, 05/09/1443 AH corresponding to 06/04/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, the Zakat Payer's appeal challenges the estimated assessment on the Grounds of its inability to pay, while ZATCA, on the other hand, maintains the validity and correctness of its actions and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision. The Department, upon careful consideration of the dispute and examining the case file, found that the Zakat Payer failed to provide any evidence that could justify overturning ZATCA's estimated assessment Decision and since this Department ascertained the correctness of the conclusion reached by the Primary Department, and that the reasons upon which the earlier Decision was based are sufficient to uphold it, this Department hereby dismisses the Zakat Payer's appeal and affirms the primary Decision in this regard.

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In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept Appeal in form filed by Zakat Payer/ (...Est.), C.R No. (...), TIN No. (...) against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2020-236) issued in Case No. (Z-5200-2020) in connection with zakat assessment for 1439.

Second: On Merits:

Zakat Payer's appeal is rejected and the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh is upheld, in accordance with the reasons and justifications stated herein.

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

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Keywords
Zakat - Accounts - Non-Deduction of Investment-Supporting Loans - Subjection of Sukuk to Zakat - Addition of Retained Earnings to Zakat Base - No Reduction of Adjusted Profit by Losses - Non-Deduction of Deferred Capital Expenses - Zakat Calculation on the Company's Foreign Investments

Abstract

The Appellant (ZATCA/ Zakat Payer) challenges the primary Decision No. (ISR-2021-163) regarding the zakat assessment for the years 2014 to 2016, where ZATCA, regarding (Non-Deduction of Investment-Supporting Loans), argues that these loans were not deducted from the zakat base because they are considered income-generating funds, similar to receivables and debts which are not deducted from the zakat base. The Department confirmed the correctness of ZATCA's conclusion, finding the reasons provided sufficient to affirm the Decision. ZATCA contends, regarding (Addition of Retained Earnings to the Zakat Base instead of Deduction of Adjusted Carried-Forward Losses), the primary Decision to cancel ZATCA's adjustment related to this issue for the year 2014 was unclear. It was found that the assessment did not include the addition of retained earnings to the zakat base for 2014. Upon reviewing both parties' perspectives on the disagreement for 2014, it was noted that there was no dispute over the deduction of carried-forward losses for that year, but rather over the amount of those losses that were deducted. Therefore, the primary Decision to reverse ZATCA's adjustment concerning the addition of retained earnings to the zakat base for 2014, and its report on deducting the adjusted carried-forward losses from the zakat base for 2014 did not align with the objections raised by the Zakat Payer and ZATCA's responses. Regarding the Zakat Payer's appeal on the issue of (Non-Deduction of Investment-Supporting Loans for the years 2014 to 2016), the appeal challenges the non-deduction of the full amount of these loans, arguing that only 65% was deducted because the remaining portion was considered an investment rather than a loan to prevent double taxation of zakat. Furthermore, the Zakat Payer's appeal, concerning (Subjection of Sukuk to Zakat for the years 2014 to 2016) item, lies in objection to include this item to the zakat base, asserting that sukuk did not finance tangible assets and should not be subject to zakat, even if a complete full year has passed. This implies acceptance of some times while others are dismissed.

Documents

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal presented on ../.. /... AH corresponding to ../.. /.... AD by (...)

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company and the appeal presented on ../.. /... AH corresponding to ../.. /.... by ZATCA against the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh No. (ISR-2021-163), issued in case No. (Z-10140-2019), regarding the zakat assessment for the years 2014 to 2016AD, filed by the Appellant against ZATCA. The primary Decision stated the following:

First: In form:

Accept the Plaintiff's (... Co.), CR No. (...) claim against the Defendant/ ZATCA.

Second: On merits:

1. Amend the Defendant's procedure concerning the non-deduction of investment-supporting loans for the subsidiary company, in proportion to the ownership percentage, in accordance with the reasons provided.
2. Dismiss the claim concerning subjection of sukuk to zakat for the years 2014 to 2016 item.
3. Cancel the Defendant's procedure regarding the addition of retained earnings to the zakat base item instead of deducting the adjusted carried-forward losses from the zakat base for the years 2014 and dismiss the claim for the years 2015 and 2016 in accordance with the reasons provided.
4. Reject the case concerning reduction of adjusted profit by losses by carried-forward losses when determining the zakat base, provided that the base is calculated on the adjusted profit.
5. Dismiss the case concerning non-deduction of deferred capital expenses item.
6. Dismiss the case concerning zakat calculation on the company's foreign investments "... Co." for the period 2014-2016 AD)

Dissatisfied with that Decision, both parties filed a statement of appeal summarized as follows:

As for Zakat Payer's appeal against Primary Department's Decision, Zakat Payer's appeal involves: The Zakat Payer, regarding (Non-Deduction of Investment-Supporting Loans for the years 2014 to 2016) item, claims that the Primary Department accepted the deduction of 65% of the loan, considering this percentage as having been subject to zakat by the subsidiary company, while the foreign partner is responsible for the remaining 35% of the supporting loan, which was not subject to zakat. This approach is incorrect because the Zakat Payer financed the supporting loan for the subsidiary company at 65%, while the foreign partner financed 35% of the loan. This means that the supporting loan was subject to zakat in the subsidiary's accounts at 65%, which represents the share of ... company in the total loan. If we accept that the Zakat Payer's share of the supporting loan was subject to zakat at 65%, then the remaining 35% pertains to the foreign partner and was not subject to zakat, then the same standard must be applied to the foreign partner's share of the loan. This means treating the taxpayer as being responsible for 65% of the foreign partner's 35% share of the total supporting loan. Considering that investments in affiliated companies are fully deducted rather than proportional to the share in the affiliated company's capital, and that what was subject to Zakat in the affiliated company is the total supporting loan recorded in the Zakat Payer's accounts, it is clear that the Zakat Payer is entitled to deduct the entire supporting loan, not just 65%, as this amount should be considered as an investment rather than a loan, and to prevent double taxation of zakat. The Zakat Payer claims, regarding (Subjection of Sukuk to Zakat for the years 2014 to 2016) item, that these sukuk do not constitute loans and should not be subject to zakat, even if a full year has passed, particularly since they did not finance any additions to capital assets. This is evident from the company's financial statements, which show that the company's investments and the supporting loans for the investment were not financed by these sukuk. Therefore, they were not used to finance capital assets. Furthermore, the inclusion of these sukuk to the zakat base for the disputed years contradicts the legal and

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regulatory provisions that state that debt prevents zakat and is justified since such debts are used to finance working capital. If these sukuk are to be considered as loans, the company believes that the relevant fatwa, which confirm that zakat is the responsibility of the lender and not the borrower, should be applied, provided that the borrower is solvent and not procrastinating, and as long as the sukuk were used in trade goods. Accordingly, the obligation to pay zakat on that wealth falls on the lending entity, and it is not permissible to impose zakat on the same wealth twice. The Zakat Payer, regarding (Addition of retained earnings to zakat base instead of calculation of adjusted carried-forward losses to deduct from the Zakat base for the years 2014 to 2016), that the Department supported the Zakat Payer's of deducting accumulated losses for the year 2014 from the zakat base but did not specify the amount. Accordingly, the Zakat Payer confirms that the value of those losses amounts to SAR (528,467,119) and retains the right to appeal the Department's Decision as a precaution in case the value of the accumulated losses differs from the amount stated above due to depreciation differences. The Department had mentioned in the fourth section of its Decision that the accumulated losses approved by ZATCA amounted to SAR (528,310,274) after excluding the effect of depreciation differences. As for the years 2015 and 2016, the Zakat Payer does not agree with ZATCA's action of adding retained earnings based on the company's audited financial statements without taking into consideration the company's adjusted accumulated losses from previous years as per assessments. Additionally, the Zakat Payer argues that subjecting the company's retained earnings to zakat does not comply with fatwas and religious rulings, as these retained earnings represent the company's share of profits that have not been received or collected. Therefore, how can the passage of a full year (for Zakat purposes) be calculated on funds that the company has not received? The Zakat Payer also emphasizes that the adjusted accumulated losses from previous years were approved by ZATCA based on its revised assessments in light of the results of the initial Decision issued for the years 2011 to 2013. The Zakat Payer, regarding (Non-deduction of adjusted profit by the accumulated losses when determining the Zakat base if the base is the adjusted profit for the years 2014 to 2016) item, claims that according to the declarations submitted to ZATCA the net adjusted profit is higher than the Zakat base (negative zakat base). Therefore, zakat was calculated based on the net adjusted profit. Given that there are adjusted accumulated losses from previous years, as mentioned in the previous item, the adjusted profit was reduced by these losses in accordance with Circular No. 122/1 for the year 1414 AH. The Zakat Payer also demands that zakat be calculated based on the zakat base, not the adjusted profit, in accordance with fatwas and religious rulings. The Department also acknowledged the existence of accumulated losses of no less than SAR (528,310,247), according to ZATCA's statement. Accordingly, the Zakat Payer asserts that the Department made an error, as based on its calculations, there is no zakat base since the base is negative. Therefore, the company deemed it appropriate to reduce its profits by the accumulated losses, thereby calculating zakat on the zakat base, not the adjusted profit. Furthermore, specifically for the year 2014, there is no zakat base for the company that could be subject to zakat. The company had profits amounting to SAR (54,644,132) according to its calculations, which cannot be subject to zakat as long as the company has accumulated losses exceeding those profits. The company is requesting an adjustment to the Zakat assessment by reducing the adjusted profit through the deduction of accumulated losses for the years 2014 to 2016. Regarding the item (Non-Deduction of Deferred Capital Expenses from the zakat base for the years 2014 to 2016), the Zakat Payer argues that these deferred expenses are considered long-term capital expenses that can be deducted from the zakat base, as these payments were made by the company and thus exited its possession before a full year passed for zakat purposes. Regarding the Department's view that these payments are included in the financial statements, the Zakat

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Payer insists that since these expenses have exited the company's possession and are backed by the financial statements, they should not be subject to zakat. Concerning the item (Calculation of Zakat on the company's (...) Co. Foreign investments for the years 2014 to 2016), the Zakat Payer claims that ZATCA calculated zakat on its investments in the UAE- based company, while deducting those foreign investments from the zakat base. The Zakat Payer asserts that these long-term investments should be deducted from the zakat base, regardless of whether the profits of these investments have already been subject to zakat as the intention behind this investment is to retain it as capital assets for generating returns. Consequently, this investment has been classified as non-current assets in the company's audited financial statements. Zakat for such investments is only due on their returns, not the principal. Furthermore, the Zakat Payer objects to the zakat base for the foreign company, as ZATCA failed to deduct deferred expenses from the zakat base of the UAE-based company (...Co.) for the years 2014 to 2016. Therefore, the Zakat Payer requests dismissal of the appealed primary Decision for the aforementioned Grounds.

ZATCA also dissatisfied with the Decision; therefore, ZATCA filed its appeal against the contested Decision under a statement of appeal summarized as follows:

Regarding ZATCA's appeal on the item (Non-Deduction of Investment-Supporting Loans for the years 2014 to 2016), ZATCA clarifies that it did not deduct these loans from the zakat base because they are utilized funds used in the activities of the invested companies, and they are treated Zakat-wise according to how these funds are used. Furthermore, financing current accounts is not considered an investment in the invested companies but rather a financing tool between related parties, where the amounts are paid directly to these companies in the form of advances or loans. According to the regulations of the Ministry of Commerce, for this balance to be considered additional capital in the invested companies, both companies must document this through an amended Articles of Association as per the Ministry of Commerce regulations. Essentially, the item represents debit current accounts with the Zakat Payer, recorded as credit current accounts with the invested companies. Therefore, the Zakat treatment for these amounts is similar to receivables and debts, which are not deducted from the zakat base. Moreover, the emergence of these balances in the Appellant Company and its subsidiaries confirms that they are entities with separate legal personalities and independent financial liabilities, even if there is a direct or indirect ownership relationship between them. These transactions were carried out on this basis. These amounts do not represent investments but rather financial transactions between the parties and should not be deducted from the zakat base, regardless of whether the debtor is a related party or not, as the financial liability of the company is independent of the financial liability of related parties. These debts are guaranteed, not owed by a defaulter or insolvent entity, and are collectible.

Regarding the item (Addition of retained earnings to the Zakat base instead of deducting the adjusted accumulated losses for the year 2014), ZATCA clarifies that upon reviewing the assessment, it was found that retained earnings were not added to the zakat base for 2014 in the first place. Therefore, ZATCA upholds the validity and correctness of its procedures and requests affirmation of its procedures and dismissal of the primary Decision on the items under ZATCA's appeal for the aforementioned Grounds.

The Department decided to hold a 10-day e-hearings. During that period, ZATCA submitted a reply on 01/06/1443 AH corresponding to 04/01/2022, in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the Primary Department on the items under appeal by the Zakat Payer. Regarding (Non-Deduction of Investment-Supporting Loans) item, the primary department's Decision aligns with Article (4), Item (Second) of the Implementing Regulations for Zakat Collection and the application of the Sharia ruling No. (2/3077) dated 08/11/1426 AH, as well as Article (8),

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Paragraph (4) of the Implementing Regulations for Zakat Collection. Regarding the item (Subjection of Sukuk to Zakat) item, the primary department is in line with Article (4), Paragraph (5) of the Implementing Regulations for Zakat Collection. As for the item (Addition of Retained Earnings), the primary department aligns with Article (4), Paragraph (8) of the Implementing Regulations for Zakat Collection. The Zakat Payer failed to provide the Documents proving the distribution or allocation of profits to a special account as required by Article (4), Item (First), Paragraph (11) of the Implementing Regulations for Zakat Collection. Concerning (Reduction of Adjusted Profit by Accumulated Losses) item, ZATCA clarified that there were no accumulated losses for the years 2015 and 2016. The Zakat Payer's request to apply Circular No. (1/122) of 1414 AH was rejected by ZATCA and affirmed by the Department, as the Implementing Regulations for Zakat Collection, which invalidate all previously issued circulars, were applied. Zakat was calculated based on the financial statements in accordance with Article (4), Items (First) and (Second) of the Implementing Regulations for Zakat Collection. The Zakat Payer's request is only applicable if the base is negative, meaning the base would be the net profit alone. Regarding the item (Non-Deduction of Capital Expenses), the primary department is consistent with Article (4), Item (Second) of the Implementing Regulations for Zakat Collection, as these expenses are not among the items deductible from the base. It was noted that they appear in the accounts under current assets, and the Zakat Payer did not provide clarification on their nature or whether they qualify as capital expenses. Furthermore, no evidence was provided that would affect the validity of the primary Decision. Regarding (Calculation of Zakat on ... Co.) item, the primary department aligns with the provisions of Article (4), Item (Second), Paragraph (4/b) of the Implementing Regulations for Zakat Collection. Therefore, ZATCA upholds the validity and correctness of its procedures and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision on the items contested by the Zakat Payer for the aforementioned Grounds.

On Monday, 14/06/1443 AH corresponding to 17/01/2021 AD, the Department decided to hold a 10-day electronic pleading hearing. However, the period elapsed without either party to the appeal submitting any additional arguments.

On Sunday, 05/07/1443 AH corresponding to 06/02/2022, after reviewing the case file, the Department, regarding (Zakat Calculation on the Company's Foreign Investment for the years 2014 to 2016) item, requested that the Zakat Payer provide proof of the Zakat payment on the foreign investments in the investment country, to be submitted within seven (7) days of date. However, Zakat Payer did not provide the required Documents.

On Wednesday, 27/08/1443 AH, corresponding to 30/03/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer and ZATCA, the Department found that the conditions for considering appeal were met in form as stipulated by the relevant laws, regulations and Decisions. Therefore, the two appeals are accepted in form due to the fact of being filed by parties having capacities and within the statutory period.

As for the merits of case, regarding the taxpayer's appeal concerning the item (Non-Deduction of Investment-Supporting Loans for the years 2014 to 2016) item, the Zakat Payer's appeal is based on the objection to the non-deduction of the full amount of the supporting loan and the deduction of only 65%. The Zakat Payer argues that this amount

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should be considered an investment rather than a loan to prevent double taxation of zakat. However, ZATCA maintains that its procedure is correct and valid, and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision. Having carefully considered the subject matter of the dispute and examined the case file in its entirety, this Department finds that the Decision reached by the Primary Department, issuer of the appealed Decision is sound. The Grounds upon which that Decision was based are sufficient to support it. Since this Department did not observe any matters that deserve correction or commentary in light of the submissions made before it, it concludes that the submissions do not affect the outcome of the Decision of the primary Department regarding this matter. Accordingly, the Department has decided to dismiss the appeal and affirm the Decision as it relates to this matter.

The Zakat Payer's appeal, regarding (Subjection of Sukuk to Zakat for the years 2014 to 2016) item, is based on the objection to the inclusion of this item in the zakat base, arguing that the sukuk did not finance capital assets and are therefore not subject to zakat, even if held for a full year. In contrast, ZATCA maintains the validity and correctness of its procedure and requests dismissal of the Zakat Payer's appeal and affirmation of the primary department. it was found, upon careful consideration of the dispute and after reviewing the case file, that the sukuk in question were issued in 2014, and thus had not been held for a full year during that period. Furthermore, ZATCA did not establish a direct link between these sukuk and specific assets deducted from the base that would justify their inclusion in the zakat base before the completion of the full year. Therefore, it is determined that the Zakat Payer is entitled not to have these amounts added to the zakat base for the year 2014. As for the years 2015 and 2016, since there is no dispute regarding the completion of the full year for the amounts in question for the years under appeal, and in application of the relevant fatwas on this matter, the amounts of these sukuk are to be added to the Zakat Payer's zakat base. Therefore, this Department concludes that the Zakat Payer's appeal for the year 2014 is accepted, while the appeal for the years 2015 and 2016 is dismissed.

Regarding the Zakat Payer's appeal concerning the item of (Addition of retained earnings to zakat base instead of calculation of adjusted carried-forward losses to be deducted from the zakat base for the years 2014 to 2016), the Zakat Payer's appeal is based on the objection to failure to determine the value of carried-forward loss deduction for the year 2014. The Zakat Payer also objects to the addition of retained earnings based on audited financial statements without considering the adjusted carried-forward losses from previous years for 2015 and 2016. In contrast, ZATCA maintains the validity and correctness of its procedure and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision. Upon careful consideration of the dispute and after reviewing the Zakat Payer's appeal, it was found that for the year 2014, the Zakat Payer requested the determination of the amount endorsed by the Primary Department. It was revealed that, upon reviewing the primary Decision, the Department had cancelled ZATCA's procedure of adding retained earnings to the zakat base instead of calculating the adjusted carried-forward losses from the zakat base for the year 2014 only. Upon further examination of both parties' positions on the issue for 2014, it became clear that there was no disagreement regarding the deduction of carried-forward losses for that year. Rather, the dispute concerned the amount of the carried-forward losses deducted for that year. Therefore, the primary Decision to cancel ZATCA's procedure related to adding retained earnings to the zakat base for 2014 and to deduct the adjusted carried-forward losses from the zakat base for 2014 does not align with the Zakat Payer's objection or ZATCA's response, demonstrating that the Decision addressed an issue that was not in dispute. Given the foregoing, this Department concludes to cancel the primary Decision regarding the addition of retained earnings to the zakat base for the year 2014 and remands the case

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back to it to reconsider this item in light of ZATCA's procedure and the Zakat Payer's original objection on the matter. As for the years 2015 and 2016, ZATCA's applied procedure for all zakat payers is the deduction of adjusted losses according to ZATCA's assessments. It was found from the Zakat Payer's appeal that there were carried-forward losses, in accordance with ZATCA's assessments, which were not offset by the Zakat Payer's profits for the two years in question. The Zakat Payer presented an analysis of these amounts in its appeal, while ZATCA did not provide any evidence that could justify deviating from the Zakat Payer's analysis of these amounts. Therefore, it is evident that the Zakat Payer's position is valid. ZATCA's arguments in its response in its response that the remaining profits must be deposited in a special account that the Zakat Payer cannot access in order to be considered for zakat is irrelevant to the issue at hand. The dispute was not over the principle of subjecting retained earnings to zakat; rather, the Zakat Payer argued that there were carried-forward losses according to ZATCA's assessment for the year 2013, which had not been offset by profits in subsequent years. Consequently, this Department concludes to accept the Zakat Payer's appeal and overturn the primary Decision regarding this item.

Regarding the Zakat Payer's appeal concerning the item of (Non-reduction of adjusted profit by carried-forward losses when determining the zakat base, where the base is the adjusted profit for the years 2014 to 2016), the Zakat Payer's appeal is based on the objection to calculating zakat on the basis of the adjusted net profit. The Zakat Payer requests an amendment to the zakat assessment by reducing the adjusted profit by the adjusted carried-forward losses for the years under dispute. In contrast, ZATCA maintains the validity and correctness of its procedure and requests dismissal of the Zakat Payer's appeal and affirmation of the primary department. Upon reviewing the dispute and examining the case file, this Department has accepted the Zakat Payer's appeal regarding its right to deduct the adjusted carried-forward losses, as per ZATCA's assessment for the year 2013, which were not offset by profits in the subsequent years. This confirms the Zakat Payer's right to determine its zakat base by accounting for both positive and negative elements, without being limited by the adjusted profit. The basis for calculating the zakat base and determining the due amount requires the presence of wealth upon which zakat is owed by the zakat payer. Considering that the calculation of the net zakat base requires the inclusion of accumulated losses and the exclusion of fixed assets, regardless of their financing method, to arrive at the Zakat base, and that this is not affected by whether the net base is less than the adjusted profit, this Department concludes that the Zakat Payer's approach to calculating zakat is correct. The net zakat base should be considered without regard to the amount of adjusted profit, as the adjusted profit does not necessarily reflect the existence of the wealth subject to zakat, which is the basis for the Zakat Payer's obligation to pay zakat. Therefore, this Department accepts the Zakat Payer's appeal and overturn the primary Decision in this regard.

The Zakat Payer's appeal, regarding (Non-deduction of deferred capital expenses from the zakat base for the years 2014 to 2016) item, is based on these expenses should be considered long-term capital expenses that should be deducted from the zakat base. In contrast, ZATCA maintains the validity and correctness of its procedure and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision. This Department, upon reviewing the dispute and examining the case file, finds that deferred capital expenses are amounts paid by the Zakat Payer for future goods or services that are not subject to zakat and do not represent a financial liability owed by another party that would result in a financial flow to the Zakat Payer. Therefore, this Department concludes to accept the Zakat Payer's appeal and overturn the primary department in this regard.

Regarding the Zakat Payer's appeal concerning the item of (Zakat Calculation on the Company's Foreign (... Co.) Investments For the years 2014 to 2016) item, the Zakat Payer

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argues that these investments should be deducted from the zakat base regardless of their zakat status, as the profits from these investments have already been subjected to zakat. In contrast, ZATCA maintains the validity and correctness of its procedure and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision. Upon reviewing the dispute and examining the case file, it was found that ZATCA calculated zakat on the foreign company while deducting that investment from its zakat base. ZATCA did not deduct deferred capital expenses from the zakat base of the foreign company. Therefore, this Department concludes that ZATCA's procedure is correct and valid. However, the Zakat Payer is entitled to deduct deferred capital expenditures from the zakat base of its foreign company for the same reasons accepted when calculating its own zakat base.

Regarding ZATCA's appeal concerning the item of (Non-Deduction of Investment-Supporting Loans for the years 2014 to 2016) item, ZATCA's appeal Non-Deduction of Investment-Supporting Loans argues that these loans were not deducted from the zakat base because they are considered income-generating funds, similar to receivables and debts which are not deducted from the zakat base. Having carefully considered the subject matter of the dispute and examined the case file in its entirety, this Department finds that the Decision reached by the Primary Department, issuer of the appealed Decision is sound. The Grounds upon which that Decision was based are sufficient to support it. Since this Department did not observe any matters that deserve correction or commentary in light of the submissions made before it, it concludes that the submissions do not affect the outcome of the Decision of the primary Department regarding this matter. Accordingly, the Department has decided to dismiss the appeal and affirm the primary Decision as it relates to this matter.

Regarding ZATCA's appeal concerning the item of (Addition of retained earnings to the zakat base instead of calculating adjusted carried-forward losses from the zakat base for the year 2014), ZATCA argues that the primary Decision lacks clarity regarding cancellation of ZATCA's relevant procedure. ZATCA contends that the assessment did not involve adding retained earnings to the zakat base for 2014. It was revealed that, upon reviewing the primary Decision, the Department had cancelled ZATCA's procedure of adding retained earnings to the zakat base instead of calculating the adjusted carried-forward losses from the zakat base for the year 2014 only. Upon further examination of both parties' positions on the issue for 2014, it became clear that there was no disagreement regarding the deduction of carried-forward losses for that year. Rather, the dispute concerned the amount of the carried-forward losses deducted for that year. Therefore, the primary Decision to cancel ZATCA's procedure related to adding retained earnings to the zakat base for 2014 and to deduct the adjusted carried-forward losses from the zakat base for 2014 does not align with the Zakat Payer's objection or ZATCA's response, demonstrating that the Decision addressed an issue that was not in dispute. Given the foregoing, this Department concludes to cancel the primary Decision regarding the addition of retained earnings to the zakat base for the year 2014 and remands the case back to it to reconsider this item in light of ZATCA's procedure and the Zakat Payer's original objection on the matter.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal filed by the Zakat Payer/ (...) Company, CR (.....), TIN (....), in form Accept the appeal in form by ZATCA against the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh No. (ISR-2021-163),

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issued in case number (Z-10140-2019), related to zakat assessment for the years 2014 to 2016.

Second: On Merits:

1. The Zakat Payer's appeal regarding (Non-Deduction of Investment-Supporting Loans for the years 2014 and 2016) item, is dismissed and the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh is affirmed, in accordance with the reasons and justifications stated herein.
2. Concerning the item of (Subjection of Sukuk to Zakat for the years 2014 to 2016 item):
   A. The Zakat Payer's appeal regarding this item for the year 2014 is accepted and the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh is overturned, in accordance with the reasons and justifications stated herein.
   B. The Zakat Payer's appeal regarding this item for the years 2015 and 2016 is dismissed and the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh is affirmed, in accordance with the reasons and justifications stated herein.
3. Regarding the Zakat Payer's appeal on the item of (Addition of retained earnings to the zakat base instead of calculating and deducting adjusted carried-forward losses from the zakat base for the years 2014 to 2016) and ZATCA's appeal on the same item for the year 2014:
   A. Cancel the primary Decision regarding this item for the zakat assessment of the year 2014 and to remand the case to the Department for reconsideration of this item in merits in light of ZATCA's procedure and the Zakat Payer's original objection, in accordance with the reasons and justifications stated herein.
   B. Accept the Zakat Payer's appeal regarding this item of (Addition of retained earnings to the zakat base instead of calculating and deducting adjusted carried-forward losses from the zakat base for the years 2015 to 2016) and overturn the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the reasons and justifications stated herein.
4. The Zakat Payer's appeal regarding (No reduction of adjusted profit by carried-forward losses when determining the zakat base, where the base is the adjusted profit for the years 2014 and 2016) item, is accepted and the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh is overturned, in accordance with the reasons and justifications stated herein.
5. The Zakat Payer's appeal regarding (Non-Deduction of deferred capital from the zakat base for the years 2014 and 2016) item, is accepted and the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh is overturned, in accordance with the reasons and justifications stated herein.
6. The Zakat Payer's appeal regarding the item of calculating zakat on the Zakat Payer's share in the foreign company (... Co.), while affirming the Zakat Payer's right to deduct its share of deferred capital expenses from the zakat base for the years 2014 to 2016, in accordance with the reasons and justifications stated herein.
7. ZATCA's appeal regarding (Non-Deduction of Investment-Supporting Loans for the years 2014 and 2016) item, is dismissed and the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh is affirmed, in accordance with the reasons and justifications stated herein.

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

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Keywords
Zakat – Accounts – Failure to Determine the Applicable Zakat Base

Abstract

The Appellant (ZATCA) challenges the primary Decision No. (ISZR-2020-164) regarding zakat assessment for the years 1426 AH to 1439 AH, where it lies in objection to cancellation of the primary Decision of ZATCA's procedure without specifying the applicable zakat base. The Department, upon reviewing the dispute and examining the case file, determined that the results reached by the Primary Department, issuer of the appealed Decision are correct, and the reasons provided are sufficient to support this Decision. Therefore, the Department dismisses the appeal and upholds Primary Department's Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal filed on ../../... /... corresponding to ../.. /.... by ZATCA against the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh No. (ISZR-2020-164), issued in case No. (Z-2475-2020), regarding the zakat assessment for the years 1426 to 1439 AH, filed by the Zakat Payer against ZATCA. The primary Decision stated the following:

First: Accept the Plaintiff's/ (.....) case, National ID No. (...), owner of (... Showroom), C.R No. (...) in form.

Second: On Merits: Cancel the Defendant's procedure, based on the reasons provided.

Dissatisfied with this Decision, Appellant (ZATCA) submitted a statement of appeal summarized as follows:

ZATCA challenges the appealed primary Decision and reaffirms its position presented before the Primary Department and argues that the Department erred in cancelling ZATCA's procedure for calculating the zakat base for the Zakat Payer. ZATCA contends that the Zakat Payer should be assessed based on a zakat base of SAR (325,000) due to the nature of its business in car showrooms. ZATCA procedure is based on Paragraph (6/A) of Article (13) of the Implementing Regulations for Zakat Collection for the year 1438 AH. ZATCA argues that it is inappropriate to assess businesses in the automotive sector based solely on the commercial registration. Cancellation of the Decision without specifying the applicable zakat base renders the primary Decision flawed and necessitates an appeal. Furthermore, ZATCA asserts that the Department's reference to the Zakat Payer's payment of zakat to charitable organizations is inconsistent with regulations and

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ZATCA's mandate for zakat collection and management as per its assigned responsibilities. Consequently, ZATCA requests the overturning of the primary Decision for the aforementioned Grounds.

On Monday 23/05/1443 AH corresponding to 27/12/2021, the Department decided to hold a 10-day e-hearing. During that period, the Zakat Payer submitted a reply in which it responded to ZATCA's appeal, summarizing that the points raised in ZATCA's memorandum are incorrect and contrary to the relevant laws and regulations. The Zakat Payer argues that the Department's Decision is correct as it is based on sound legal Grounds and further asserts that ZATCA's claim that car showrooms engage in significant transactions is unfounded and unsupported by any evidence from ZATCA's side. Therefore, the Zakat Payer requests dismissal of ZATCA's appeal and affirmation of the primary department for the aforementioned Grounds.

The Department, after reviewing the appeal memoranda and the responses, and after examining the Documents and papers contained in the case file, decided that the case was ready for determination and the issuance of a ruling on its merits on Sunday 05/07/1443 AH corresponding to 06/02/2022. Accordingly, the Department decided to close the pleadings and reserve the case for a final Decision.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by ZATCA, the Department found that the formal requirements for appeal hearing have been met as stipulated by the relevant laws, regulations and Decisions. Therefore, the appeal is accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, after reviewing the case file, ZATCA's appeal concerns the cancellation of the primary department of ZATCA's procedure without specifying the applicable zakat base. The Zakat Payer, on the other hand, requests dismissal of ZATCA's appeal and affirmation of the primary department. The Department, upon careful consideration of the dispute and examining the case file, ascertained the correctness of the conclusion reached by the Primary Department, issuer of the appealed Decision, and that the reasons upon which the earlier Decision was based are sufficient to uphold it, this Department hereby dismisses ZATCA's appeal and affirms the primary Decision in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form by the Appellant/ ZATCA against the Decision of the Second Department for Determination of Income Tax Violations and Disputes No. (ISZR-2020-164), issued in case number (Z-2475-2020), related to zakat assessment for the years 1426 AH to 1439 AH.

Second: On Merits:

ZATCA's appeal is dismissed and the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh is upheld, in accordance with the reasons and justifications stated herein.

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

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Decision No. IR-2022-127
Case No. Z-73558-2021

Keywords

Zakat - Accounts - Cancellation of Commercial Registration - Acceptance of Appeal - Cancellation of Primary Department Decision

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IFR-2021-1314) regarding zakat assessment for 1429 AH. Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity. The Department has established that Zakat payer's commercial registration has been struck off and that it was not active during the years for which ZATCA conducted the assessment, as evidenced by the certificate of cancellation of the commercial registration. Therefore, the Department ruled to accept the appeal and cancel the primary Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on .. /../…AH, corresponding to ../../.. AD, by/ ..., ID. No. (...) in his capacity as owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1314) issued in Case No. (Z-52166-2021) related to tax assessment for 1429 AH filed by Appellant against ZATCA, in which the Primary Department decided as follows:

Dismiss the Case filed by the Plaintiff/....., TIN No. (....), against the Defendant/ ZATCA for not submitting an objection to the Defendant's Decision during the specified period.

Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:

Zakat payer is objecting to the appealed primary Decision, arguing that ZATCA conducted an assessment on a registration that was canceled in 1436 AH and that the business had ceased operations since 1426 AH, which means that the disputed year of assessment was included in the period when the business was inactive. This indicates that ZATCA conducted assessment on funds that were not subject to Zakat in the first place. Furthermore, failure to renew the registration is evidence of the cessation of business activities, as confirmed by the Ministry of Commerce. Therefore, Zakat payer requests to overturn the appealed primary Decision and consider its case on merits based on the aforementioned reasons.

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On Monday, 04/08/1443 AH corresponding to 07/03/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary Department. ZATCA also argued that Zakat payer did not object to ZATCA's Decision within the prescribed period, rendering ZATCA's Decision final and immune from appeal, citing Article (2) of Tax Dispute and Violation Committee Procedures As such, ZATCA requests that the Department does not accept any new requests from Zakat payer, citing Article (186) of the Law of Civil Procedure. ZATCA, accordingly, maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons.

On Wednesday, 20/08/1443 AH corresponding to 23/03/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits, Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity, However, ZATCA requested dismissing Zaka payer's appeal and upholding Primary Department's Decision. Upon careful consideration by the Department of the dispute regarding 1429 AH, and after examining the Case file, it has been established that Zakat payer's commercial registration was canceled and that Zakat payer was not actively engaged in business during the years for which ZATCA conducted an assessment, prior to the date of cancellation as evidenced by the certificate of cancellation issued by the Ministry of Commerce. Given that Zakat payer has not been shown to have carried on any business activities during the disputed years , it is clear that ZATCA's Decision to conduct an assessment on Zakat payer was not based on a valid legal foundation. Consequently, the Department finds that ZATCA's Decision to conduct an assessment was flawed due to a defect in its reasoning, rendering it an invalid administrative Decision as it lacks a fundamental element of a valid administrative Decision. This fact is not prejudiced by the legal provision providing that ZATCA's Decision becomes final after the lapse of the period specified by the law for objecting to it, as this immunity does not extend to administrative Decisions that are marred by a defect in their reasoning. Such immunity applies only to Decisions that are valid and have all the legally required elements. Therefore, this Department has decided to cancel ZATCA's assessment Decision and the Decision of First Department for Determination of Income Tax Violations and Disputes in Riyadh.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ Enterprise ....., C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1314) issued in Case No. (Z-52166-2021) in connection with zakat assessment for 1429 AH.

Second: On Merits:

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Overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh and cancel ZATCA's disputed assessment, according to Grounds and reasons stated herein.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. 8IR-2022-12

Case No. Z-73562-2021

Keywords:
Zakat - Accounts - Cancellation of Commercial Registration - Acceptance of Appeal - Cancellation of Primary Department Decision

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IFR-2021-1315) regarding zakat assessment for 1430 AH. Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity. The Department has established that Zakat payer's commercial registration has been struck off and that it was not active during the years for which ZATCA conducted the assessment, as evidenced by the certificate of cancellation of the commercial registration. Therefore, the Department ruled to accept the appeal and cancel the primary Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on...../.../...., corresponding to .../.../.../, by/ ..., ID No. (...), in his capacity as owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1315) issued in Case No. (Z-52171-2021) related to tax assessment for 1430 AH filed by Appellant against ZATCA, in which the Primary Department decided as follows:

Dismiss the Case filed by the Plaintiff/....., TIN No. (....), against the Defendant/ ZATCA for not submitting an objection to the Defendant's Decision during the specified period.

Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:

Zakat payer is objecting to the appealed primary Decision, arguing that ZATCA conducted an assessment on a registration that was canceled in 1436 AH and that the business had ceased operations since 1426 AH, which means that the disputed year of assessment was included in the period when the business was inactive. This indicates that ZATCA conducted assessment on funds that were not subject to Zakat in the first place. Furthermore, failure to renew the registration is evidence of the cessation of business activities, as confirmed by the Ministry of Commerce. Therefore, Zakat payer requests to overturn the appealed primary Decision and consider its case on merits based on the aforementioned reasons.

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On Monday, 04/08/1443 AH corresponding to 07/03/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary Department. ZATCA also argued that Zakat payer did not object to ZATCA's Decision within the prescribed period, rendering ZATCA's Decision final and immune from appeal, citing Article (2) of Tax Dispute and Violation Committee Procedures As such, ZATCA requests that the Department does not accept any new requests from Zakat payer, citing Article (186) of the Law of Civil Procedure. ZATCA, accordingly, maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons.

On Wednesday, 20/08/1443 AH corresponding to 23/03/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits, Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity, However, ZATCA requested dismissing Zaka payer's appeal and upholding Primary Department's Decision. Upon careful consideration by the Department of the dispute regarding 1430 AH, and after examining the Case file, it has been established that Zakat payer's commercial registration was canceled and that Zakat payer was not actively engaged in business during the years for which ZATCA conducted an assessment, prior to the date of cancellation as evidenced by the certificate of cancellation issued by the Ministry of Commerce. Given that Zakat payer has not been shown to have carried on any business activities during the disputed years , it is clear that ZATCA's Decision to conduct an assessment on Zakat payer was not based on a valid legal foundation. Consequently, the Department finds that ZATCA's Decision to conduct an assessment was flawed due to a defect in its reasoning, rendering it an invalid administrative Decision as it lacks a fundamental element of a valid administrative Decision. This fact is not prejudiced by the legal provision providing that ZATCA's Decision becomes final for objecting to it, as this immunity does not extend to administrative Decisions that are marred by a defect in their reasoning. Such immunity applies only to Decisions that are valid and have all the legally required elements. Therefore, this Department has decided to cancel ZATCA's assessment Decision and the Decision of First Department for Determination of Income Tax Violations and Disputes in Riyadh.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ ....., C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1315) issued in Case No. (Z-52171-2021) in connection with zakat assessment for 1430 AH.

Second: On Merits:

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Overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh and cancel ZATCA's disputed assessment, according to Grounds and reasons stated herein.

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Decision No. 9IR-2022-12
Case No. Z-73563-2021

Keywords

Zakat - Accounts - Cancellation of Commercial Registration - Acceptance of Appeal - Cancellation of Primary Department Decision

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IFR-2021-1316) regarding zakat assessment for 1431 AH. Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity. The Department has established that Zakat payer's commercial registration has been struck off and that it was not active during the years for which ZATCA conducted the assessment, as evidenced by the certificate of cancellation of the commercial registration. Therefore, the Department ruled to accept the appeal and cancel the primary Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on...../.../...., corresponding to .../.../.../, by/ ..., ID No. (...), in his capacity as owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1316) issued in Case No. (Z-52174-2021) related to tax assessment for 1431 AH filed by Appellant against ZATCA, in which the Primary Department decided as follows:

Dismiss the Case filed by the Plaintiff/....., TIN No. (....), against the Defendant/ ZATCA for not submitting an objection to the Defendant's Decision during the specified period.

Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:

Zakat payer is objecting to the appealed primary Decision, arguing that ZATCA conducted an assessment on a registration that was canceled in 1436 AH and that the business had ceased operations since 1426 AH, which means that the disputed year of assessment was included in the period when the business was inactive. This indicates that ZATCA conducted assessment on funds that were not subject to Zakat in the first place. Furthermore, failure to renew the registration is evidence of the cessation of business activities, as confirmed by the Ministry of Commerce. Therefore, Zakat payer requests to overturn the appealed primary Decision and consider its case on merits based on the aforementioned reasons.

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On Monday, 04/08/1443 AH corresponding to 07/03/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary Department. ZATCA also argued that Zakat payer did not object to ZATCA's Decision within the prescribed period, rendering ZATCA's Decision final and immune from appeal, citing Article (2) of Tax Dispute and Violation Committee Procedures As such, ZATCA requests that the Department does not accept any new requests from Zakat payer, citing Article (186) of the Law of Civil Procedure. ZATCA, accordingly, maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons.

On Wednesday, 20/08/1443 AH corresponding to 23/03/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits, Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity, However, ZATCA requested dismissing Zaka payer's appeal and upholding Primary Department's Decision. Upon careful consideration by the Department of the dispute regarding 1431 AH, and after examining the Case file, it has been established that Zakat payer's commercial registration was canceled and that Zakat payer was not actively engaged in business during the years for which ZATCA conducted an assessment, prior to the date of cancellation as evidenced by the certificate of cancellation issued by the Ministry of Commerce. Given that Zakat payer has not been shown to have carried on any business activities during the disputed years , it is clear that ZATCA's Decision to conduct an assessment on Zakat payer was not based on a valid legal foundation. Consequently, the Department finds that ZATCA's Decision to conduct an assessment was flawed due to a defect in its reasoning, rendering it an invalid administrative Decision as it lacks a fundamental element of a valid administrative Decision. This fact is not prejudiced by the legal provision providing that ZATCA's Decision becomes final after the lapse of the period specified by the law for objecting to it, as this immunity does not extend to administrative Decisions that are marred by a defect in their reasoning. Such immunity applies only to Decisions that are valid and have all the legally required elements. Therefore, this Department has decided to cancel ZATCA's assessment Decision and the Decision of First Department for Determination of Income Tax Violations and Disputes in Riyadh.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ ....., C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1316) issued in Case No. (Z-52174-2021) in connection with zakat assessment for 1431 AH.

Second: On Merits:

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Overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh and cancel ZATCA's disputed assessment, according to Grounds and reasons stated herein.

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Decision No. IR-2022-130
Case No. Z-73564-2021

Keywords
Zakat - Accounts - Cancellation of Commercial Registration - Acceptance of Appeal - Cancellation of Primary Department Decision

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IFR-2021-1317) regarding zakat assessment for 1432 AH. Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity. The Department has established that Zakat payer's commercial registration has been struck off and that it was not active during the years for which ZATCA conducted the assessment, as evidenced by the certificate of cancellation of the commercial registration. Therefore, the Department ruled to accept the appeal and cancel the primary Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued pursuant to Minister of Finance Decision No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on.../../..., AH corresponding to .../.../... AD, by/ ..., ID No. (...) in his capacity as owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1317) issued in Case No. (Z-52175-2021) related to tax assessment for 1432 AH filed by Appellant against ZATCA, in which the Primary Department decided as follows:

Dismiss the Case filed by the Plaintiff/....., TIN No. (....), against the Defendant/ ZATCA for not submitting an objection to the Defendant's Decision during the specified period.

Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:

Zakat payer is objecting to the appealed primary Decision, arguing that ZATCA conducted an assessment on a registration that was canceled in 1436 AH and that the business had ceased operations since 1426 AH, which means that the disputed year of assessment was included in the period when the business was inactive. This indicates that ZATCA conducted assessment on funds that were not subject to Zakat in the first place. Furthermore, failure to renew the registration is evidence of the cessation of business activities, as confirmed by the Ministry of Commerce. Therefore, Zakat payer requests to

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overturn the appealed primary Decision and consider its case on merits based on the aforementioned reasons.

On Monday, 04/08/1443 AH corresponding to 07/03/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary Department. ZATCA also argued that Zakat payer did not object to ZATCA's Decision within the prescribed period, rendering ZATCA's Decision final and immune from appeal, citing Article (2) of Tax Dispute and Violation Committee Procedures As such, ZATCA requests that the Department does not accept any new requests from Zakat payer, citing Article (186) of the Law of Civil Procedure. ZATCA, accordingly, maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons.

On Wednesday, 20/08/1443 AH corresponding to 23/03/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits, Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity, However, ZATCA requested dismissing Zaka payer's appeal and upholding Primary Department's Decision. Upon careful consideration by the Department of the dispute regarding 1432 AH, and after examining the Case file, it has been established that Zakat payer's commercial registration was canceled and that Zakat payer was not actively engaged in business during the years for which ZATCA conducted an assessment, prior to the date of cancellation as evidenced by the certificate of cancellation issued by the Ministry of Commerce. Given that Zakat payer has not been shown to have carried on any business activities during the disputed years , it is clear that ZATCA's Decision to conduct an assessment on Zakat payer was not based on a valid legal foundation. Consequently, the Department finds that ZATCA's Decision to conduct an assessment was flawed due to a defect in its reasoning, rendering it an invalid administrative Decision as it lacks a fundamental element of a valid administrative Decision. This fact is not prejudiced by the legal provision providing that ZATCA's Decision becomes final after the lapse of the period specified by the law for objecting to it, as this immunity does not extend to administrative Decisions that are marred by a defect in their reasoning. Such immunity applies only to Decisions that are valid and have all the legally required elements. Therefore, this Department has decided to cancel ZATCA's assessment Decision and the Decision of First Department for Determination of Income Tax Violations and Disputes in Riyadh.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the Appeal filed by Zakat payer/ ..., CR. No. (....), TIN No.(....), against First Department for Determination of Income Tax Violations and Disputes in

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Riyadh Decision No. (IFR-2021-1317) issued in Case No. (Z-52175-2021) in connection with zakat assessment for 1432 AH.

Second: On Merits:

Overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh and cancel ZATCA's disputed assessment, according to Grounds and reasons stated herein.

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Keywords
Zakat - Accounts - Cancellation of Commercial Registration - Acceptance of Appeal - Cancellation of Primary Department Decision

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IFR-2021-1318) regarding zakat assessment for 1433 AH. Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity. The Department has established that Zakat payer's commercial registration has been struck off and that it was not active during the years for which ZATCA conducted the assessment, as evidenced by the certificate of cancellation of the commercial registration. Therefore, the Department ruled to accept the appeal and cancel the primary Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on .. /.. /...AH, corresponding to../../... AD, by/ ... holder of National ID No. (...), in his capacity as owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1318) issued in Case No. (Z-52178-2021) related to tax assessment for 1433 AH filed by Appellant against ZATCA, in which the Primary Department decided as follows:

Dismiss the Case filed by the Plaintiff/....., TIN No. (....), against the Defendant/ ZATCA for not submitting an objection to the Defendant's Decision during the specified period.

Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:

Zakat payer is objecting to the appealed primary Decision, arguing that ZATCA conducted an assessment on a registration that was canceled in 1436 AH and that the business had ceased operations since 1426 AH, which means that the disputed year of assessment was included in the period when the business was inactive. This indicates that ZATCA conducted assessment on funds that were not subject to Zakat in the first place. Furthermore, failure to renew the registration is evidence of the cessation of business activities, as confirmed by the Ministry of Commerce. Therefore, Zakat payer requests to overturn the appealed primary Decision and consider its case on merits based on the aforementioned reasons.

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On Monday, 04/08/1443 AH corresponding to 07/03/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary Department. ZATCA also argued that Zakat payer did not object to ZATCA's Decision within the prescribed period, rendering ZATCA's Decision final and immune from appeal, citing Article (2) of Tax Dispute and Violation Committee Procedures As such, ZATCA requests that the Department does not accept any new requests from Zakat payer, citing Article (186) of the Law of Civil Procedure. ZATCA, accordingly, maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons.

On Wednesday, 20/08/1443 AH corresponding to 23/03/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits, Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity, However, ZATCA requested dismissing Zaka payer's appeal and upholding Primary Department's Decision. Upon careful consideration by the Department of the dispute regarding 1433 AH, and after examining the Case file, it has been established that Zakat payer's commercial registration was canceled and that Zakat payer was not actively engaged in business during the years for which ZATCA conducted an assessment, prior to the date of cancellation as evidenced by the certificate of cancellation issued by the Ministry of Commerce. Given that Zakat payer has not been shown to have carried on any business activities during the disputed years , it is clear that ZATCA's Decision to conduct an assessment on Zakat payer was not based on a valid legal foundation. Consequently, the Department finds that ZATCA's Decision to conduct an assessment was flawed due to a defect in its reasoning, rendering it an invalid administrative Decision as it lacks a fundamental element of a valid administrative Decision. This fact is not prejudiced by the legal provision providing that ZATCA's Decision becomes final after the lapse of the period specified by the law for objecting to it, as this immunity does not extend to administrative Decisions that are marred by a defect in their reasoning. Such immunity applies only to Decisions that are valid and have all the legally required elements. Therefore, this Department has decided to cancel ZATCA's assessment Decision and the Decision of First Department for Determination of Income Tax Violations and Disputes in Riyadh.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ ....., C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1318) issued in Case No. (Z-52178-2021) in connection with zakat assessment for 1433 AH.

Second: On Merits:

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Overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh and cancel ZATCA's disputed assessment, according to Grounds and reasons stated herein.

Public | عام

Decision No. IR-2022-132
Case No. Z-73569-2021

Keywords
Zakat - Accounts - Cancellation of Commercial Registration - Acceptance of Appeal - Cancellation of Primary Department Decision

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IFR-2021-1319) regarding zakat assessment for 1434 AH. Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity. The Department has established that Zakat payer's commercial registration has been struck off and that it was not active during the years for which ZATCA conducted the assessment, as evidenced by the certificate of cancellation of the commercial registration. The Department hereby ruled to accept the appeal and cancel the primary Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on...../.../...., corresponding to .../.../, by/ ..., ID No. (...), in his capacity as owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1319) issued in Case No. (Z-52188-2021) related to tax assessment for 1434 AH filed by Appellant against ZATCA, in which the Primary Department decided as follows:

Dismiss the Case filed by the Plaintiff/....., TIN No. (....), against the Defendant/ ZATCA for not submitting an objection to the Defendant's Decision during the specified period.

Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:

Zakat payer is objecting to the appealed primary Decision, arguing that ZATCA conducted an assessment on a registration that was canceled in 1436 AH and that the business had ceased operations since 1426 AH, which means that the disputed year of assessment was included in the period when the business was inactive. This indicates that ZATCA conducted assessment on funds that were not subject to Zakat in the first place. Furthermore, failure to renew the registration is evidence of the cessation of business activities, as confirmed by the Ministry of Commerce. Therefore, Zakat payer requests to overturn the appealed primary Decision and consider its case on merits based on the aforementioned reasons.

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On Monday, 04/08/1443 AH corresponding to 07/03/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary Department. ZATCA also argued that Zakat payer did not object to ZATCA's Decision within the prescribed period, rendering ZATCA's Decision final and immune from appeal, citing Article (2) of Tax Dispute and Violation Committee Procedures As such, ZATCA requests that the Department does not accept any new requests from Zakat payer, citing Article (186) of the Law of Civil Procedure. ZATCA, accordingly, maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons.

On Wednesday, 20/08/1443 AH corresponding to 23/03/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits, Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity, However, ZATCA requested dismissing Zaka payer's appeal and upholding Primary Department's Decision. Upon careful consideration by the Department of the dispute regarding 1434 AH, and after examining the Case file, it has been established that Zakat payer's commercial registration was canceled and that Zakat payer was not actively engaged in business during the years for which ZATCA conducted an assessment, prior to the date of cancellation as evidenced by the certificate of cancellation issued by the Ministry of Commerce. Given that Zakat payer has not been shown to have carried on any business activities during the disputed years , it is clear that ZATCA's Decision to conduct an assessment on Zakat payer was not based on a valid legal foundation. Consequently, the Department finds that ZATCA's Decision to conduct an assessment was flawed due to a defect in its reasoning, rendering it an invalid administrative Decision as it lacks a fundamental element of a valid administrative Decision. This fact is not prejudiced by the legal provision providing that ZATCA's Decision becomes final after the lapse of the period specified by the law for objecting to it, as this immunity does not extend to administrative Decisions that are marred by a defect in their reasoning. Such immunity applies only to Decisions that are valid and have all the legally required elements. Therefore, this Department has decided to cancel ZATCA's assessment Decision and the Decision of First Department for Determination of Income Tax Violations and Disputes in Riyadh.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ ....., C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1319) issued in Case No. (Z-52188-2021) in connection with zakat assessment for 14434 AH.

Second: On Merits:

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Overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh and cancel ZATCA's disputed assessment, according to Grounds and reasons stated herein.

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Keywords
Zakat - Accounts - Cancellation of Commercial Registration - Acceptance of Appeal - Cancellation of Primary Department Decision

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IFR-2021-1320) regarding zakat assessment for 1436 AH. Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity. The Department has established that Zakat payer's commercial registration has been struck off and that it was not active during the years for which ZATCA conducted the assessment, as evidenced by the certificate of cancellation of the commercial registration. Therefore, the Department ruled to accept the appeal and cancel the primary Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on...../.../...., corresponding to .../.../.../, by/ ..., ID No. (...), in his capacity as owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1320) issued in Case No. (Z-52192-2021) related to tax assessment for 1436 AH filed by Appellant against ZATCA, in which the Primary Department decided as follows:

Dismiss the Case filed by the Plaintiff/....., TIN (...). ZATCA conducted assessment on funds that were not subject to Zakat in the first place. Furthermore, failure to renew the registration is evidence of the cessation of business activities, as confirmed by the Ministry of Commerce. Therefore, Zakat payer requests to overturn the appealed primary Decision and consider its case on merits based on the aforementioned reasons.

On Monday, 04/08/1443 AH corresponding to 07/03/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary Department. ZATCA also argued that Zakat payer did not object to ZATCA's Decision within the prescribed period, rendering ZATCA's Decision final and immune from appeal, citing Article (2) of Tax Dispute and Violation Committee Procedures As such, ZATCA requests that the Department does not accept any new requests from Zakat payer, citing Article (186) of the Law of Civil Procedure. ZATCA, accordingly, maintains the accuracy

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and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons.
On Wednesday, 20/08/1443 AH corresponding to 23/03/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.
against the Defendant/ ZATCA for not submitting an objection to the Defendant's Decision during the specified period.
Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:
Zakat payer is objecting to the appealed primary Decision, arguing that ZATCA conducted an assessment on a registration that was canceled in 1436 AH and that the business had ceased operations since 1426 AH, which means that the disputed year of assessment was included in the period when the business was inactive. This indicates that ZATCA

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.
On Merits, Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity, However, ZATCA requested dismissing Zaka payer's appeal and upholding Primary Department's Decision. Upon careful consideration by the Department of the dispute regarding 1436 AH, and after examining the Case file, it has been established that Zakat payer's commercial registration was canceled and that Zakat payer was not actively engaged in business during the years for which ZATCA conducted an assessment, prior to the date of cancellation as evidenced by the certificate of cancellation issued by the Ministry of Commerce. Given that Zakat payer has not been shown to have carried on any business activities during the disputed years , it is clear that ZATCA's Decision to conduct an assessment on Zakat payer was not based on a valid legal foundation. Consequently, the Department finds that ZATCA's Decision to conduct an assessment was flawed due to a defect in its reasoning, rendering it an invalid administrative Decision as it lacks a fundamental element of a valid administrative Decision. This fact is not prejudiced by the legal provision providing that ZATCA's Decision becomes final after the lapse of the period specified by the law for objecting to it, as this immunity does not extend to administrative Decisions that are marred by a defect in their reasoning. Such immunity applies only to Decisions that are valid and have all the legally required elements. Therefore, this Department has decided to cancel ZATCA's assessment Decision and the Decision of First Department for Determination of Income Tax Violations and Disputes in Riyadh.
In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ ....., C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1320) issued in Case No. (Z-52192-2021) in connection with zakat assessment for 1436 AH.

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Second: On Merits:

Overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh and cancel ZATCA's disputed assessment, according to Grounds and reasons stated herein.

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Keywords
Zakat - Accounts - Cancellation of Commercial Registration - Acceptance of Appeal - Cancellation of Primary Department Decision

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IFR-2021-1321) regarding zakat assessment for 1437 AH. Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity. The Department has established that Zakat payer's commercial registration has been struck off and that it was not active during the years for which ZATCA conducted the assessment, as evidenced by the certificate of cancellation of the commercial registration. Therefore, the Department ruled to accept the appeal and cancel the primary Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal filed on .. /.. /....., corresponding to ../../.. AD, by/ ..., ID. No. (...), in his capacity as owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1321) issued in Case No. (Z-52196-2021) related to tax assessment for 1437 AH filed by Appellant against ZATCA, in which the Primary Department decided as follows:
Dismiss the Case filed by the Plaintiff/....., TIN No. (....), against the Defendant/ ZATCA for not submitting an objection to the Defendant's Decision during the specified period.
Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:
Zakat payer is objecting to the appealed primary Decision, arguing that ZATCA conducted an assessment on a registration that was canceled in 1436 AH and that the business had ceased operations since 1426 AH. This indicates that ZATCA conducted assessment on funds that were not subject to Zakat in the first place. Furthermore, failure to renew the registration is evidence of the cessation of business activities, as confirmed by the Ministry of Commerce. Therefore, Zakat payer requests to overturn the appealed primary Decision and consider its case on merits based on the aforementioned reasons.
On Monday, 04/08/1443 AH corresponding to 07/03/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary

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Department. ZATCA also argued that Zakat payer did not object to ZATCA's Decision within the prescribed period, rendering ZATCA's Decision final and immune from appeal, citing Article (2) of Tax Dispute and Violation Committee Procedures As such, ZATCA requests that the Department does not accept any new requests from Zakat payer, citing Article (186) of the Law of Civil Procedure. ZATCA, accordingly, maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons.

On Wednesday, 20/08/1443 AH corresponding to 23/03/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits, Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity, However, ZATCA requested dismissing Zaka payer's appeal and upholding Primary Department's Decision. Upon careful consideration by the Department of the dispute regarding 1437 AH, and after examining the Case file, it has been established that Zakat payer's commercial registration was canceled and that Zakat payer was not actively engaged in business during the years for which ZATCA conducted an assessment, prior to the date of cancellation as evidenced by the certificate of cancellation issued by the Ministry of Commerce. Given that Zakat payer has not been shown to have carried on any business activities during the disputed years , it is clear that ZATCA's Decision to conduct an assessment on Zakat payer was not based on a valid legal foundation. Consequently, the Department finds that ZATCA's Decision to conduct an assessment was flawed due to a defect in its reasoning, rendering it an invalid administrative Decision as it lacks a fundamental element of a valid administrative Decision. This fact is not prejudiced by the legal provision providing that ZATCA's Decision becomes final after the lapse of the period specified by the law for objecting to it, as this immunity does not extend to administrative Decisions that are marred by a defect in their reasoning. Such immunity applies only to Decisions that are valid and have all the legally required elements. Therefore, this Department has decided to cancel ZATCA's assessment Decision and the Decision of First Department for Determination of Income Tax Violations and Disputes in Riyadh.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the Appeal filed by Zakat payer/ ..., CR. No. (....), TIN No.(....), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1321) issued in Case No. (Z-52196-2021) in connection with zakat assessment for 1437 AH.

Second: On Merits:

Overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh and cancel ZATCA's disputed assessment, according to Grounds and reasons stated herein.

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Keywords
Zakat - Accounts - Cancellation of Commercial Registration - Acceptance of Appeal - Cancellation of Primary Department Decision

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IFR-2021-1322) regarding zakat assessment for 1438 AH. Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity. The Department has established that Zakat payer's commercial registration has been struck off and that it was not active during the years for which ZATCA conducted the assessment, as evidenced by the certificate of cancellation of the commercial registration. Therefore, the Department ruled to accept the appeal and cancel the primary Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal filed on .. /.. /..., corresponding to../../...AD, by/ ..., ID No. (...) in his capacity as owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1322) issued in Case No. (Z-52197-2021) related to tax assessment for 1438 AH filed by Appellant against ZATCA, in which the Primary Department decided as follows:
Dismiss the Case filed by the Plaintiff/....., TIN No. (....), against the Defendant/ ZATCA for not submitting an objection to the Defendant's Decision during the specified period.
Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:
Zakat payer is objecting to the appealed primary Decision, arguing that ZATCA conducted an assessment on a registration that was canceled in 1436 AH and that the business had ceased operations since 1426 AH. This indicates that ZATCA conducted assessment on funds that were not subject to Zakat in the first place. Furthermore, failure to renew the registration is evidence of the cessation of business activities, as confirmed by the Ministry of Commerce. Therefore, Zakat payer requests to overturn the appealed primary Decision and consider its case on merits based on the aforementioned reasons.
On Monday, 04/08/1443 AH corresponding to 07/03/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary Department. ZATCA also argued that Zakat payer did not object to ZATCA's Decision

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within the prescribed period, rendering ZATCA's Decision final and immune from appeal, citing Article (2) of Tax Dispute and Violation Committee Procedures As such, ZATCA requests that the Department does not accept any new requests from Zakat payer, citing Article (186) of the Law of Civil Procedure. ZATCA, accordingly, maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons.

On Wednesday, 20/08/1443 AH corresponding to 23/03/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits, Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity, However, ZATCA requested dismissing Zaka payer's appeal and upholding Primary Department's Decision. Upon careful consideration by the Department of the dispute regarding 1438 AH, and after examining the Case file, it has been established that Zakat payer's commercial registration was canceled and that Zakat payer was not actively engaged in business during the years for which ZATCA conducted an assessment, prior to the date of cancellation as evidenced by the certificate of cancellation issued by the Ministry of Commerce. Given that Zakat payer has not been shown to have carried on any business activities during the disputed years , it is clear that ZATCA's Decision to conduct an assessment on Zakat payer was not based on a valid legal foundation. Consequently, the Department finds that ZATCA's Decision to conduct an assessment was flawed due to a defect in its reasoning, rendering it an invalid administrative Decision as it lacks a fundamental element of a valid administrative Decision. This fact is not prejudiced by the legal provision providing that ZATCA's Decision becomes final after the lapse of the period specified by the law for objecting to it, as this immunity does not extend to administrative Decisions that are marred by a defect in their reasoning. Such immunity applies only to Decisions that are valid and have all the legally required elements. Therefore, this Department has decided to cancel ZATCA's assessment Decision and the Decision of First Department for Determination of Income Tax Violations and Disputes in Riyadh.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ ....., C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1322) issued in Case No. (Z-52197-2021) in connection with zakat assessment for 1438 AH.

Second: On Merits:

Overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh and cancel ZATCA's disputed assessment, according to Grounds and reasons stated herein.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-136
Case No. Z-73577-2021

Keywords
Zakat - Accounts - Cancellation of Commercial Registration - Acceptance of Appeal - Cancellation of Primary Department Decision

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IFR-2021-1323) regarding zakat assessment for 1439 AH. Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity. The Department has established that Zakat payer's commercial registration has been struck off and that it was not active during the years for which ZATCA conducted the assessment, as evidenced by the certificate of cancellation of the commercial registration. Therefore, the Department ruled to accept the appeal and cancel the primary Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

The Department convened to consider the Appeal filed on ... /.. /....., corresponding to../../... AD, by/ ... holder of National ID No. (...), in his capacity as owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1323) rendered in Case No. (Z-52200-2021) related to zakat assessment for 1439 filed by Appellant against ZATCA. Primary Department's decided as follows:

Dismiss the Case filed by the Plaintiff/....., TIN No. (....), against the Defendant/ ZATCA for not submitting an objection to the Defendant's Decision during the specified period.

Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:

Zakat payer is objecting to the appealed primary Decision, arguing that ZATCA conducted an assessment on a registration that was canceled in 1436 AH and that the business had ceased operations since 1426 AH. This indicates that ZATCA conducted assessment on funds that were not subject to Zakat in the first place. Furthermore, failure to renew the registration is evidence of the cessation of business activities, as confirmed by the Ministry of Commerce. Therefore, Zakat payer requests to overturn the appealed primary Decision and consider its case on merits based on the aforementioned reasons.

On Monday, 04/08/1443 AH corresponding to 07/03/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to

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Zakat payer's appeal, reaffirming its previously stated position before the Primary Department. ZATCA also argued that Zakat payer did not object to ZATCA's Decision within the prescribed period, rendering ZATCA's Decision final and immune from appeal, citing Article (2) of Tax Dispute and Violation Committee Procedures As such, ZATCA requests that the Department does not accept any new requests from Zakat payer, citing Article (186) of the Law of Civil Procedure. ZATCA, accordingly, maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons.

On Wednesday, 20/08/1443 AH corresponding to 23/03/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits, Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity, However, ZATCA requested dismissing Zaka payer's appeal and upholding Primary Department's Decision. Upon careful consideration by the Department of the dispute regarding 1439 AH, and after examining the Case file, it has been established that Zakat payer's commercial registration was canceled and that Zakat payer was not actively engaged in business during the years for which ZATCA conducted an assessment, prior to the date of cancellation as evidenced by the certificate of cancellation issued by the Ministry of Commerce. Given that Zakat payer has not been shown to have carried on any business activities during the disputed years , it is clear that ZATCA's Decision to conduct an assessment on Zakat payer was not based on a valid legal foundation. Consequently, the Department finds that ZATCA's Decision to conduct an assessment was flawed due to a defect in its reasoning, rendering it an invalid administrative Decision as it lacks a fundamental element of a valid administrative Decision. This fact is not prejudiced by the legal provision providing that ZATCA's Decision becomes final after the lapse of the period specified by the law for objecting to it, as this immunity does not extend to administrative Decisions that are marred by a defect in their reasoning. Such immunity applies only to Decisions that are valid and have all the legally required elements. Therefore, this Department has decided to cancel ZATCA's assessment Decision and the Decision of First Department for Determination of Income Tax Violations and Disputes in Riyadh.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the Appeal filed by Zakat payer/ ..., CR. No. (...), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1323) issued in Case No. (Z-52200-2021) in connection with zakat assessment for 1439 AH.

Second: On Merits:

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Overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh and cancel ZATCA's disputed assessment, according to Grounds and reasons stated herein.

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Keywords
Zakat - Accounts - Cancellation of Commercial Registration - Acceptance of Appeal - Cancellation of Primary Department Decision

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IFR-2021-1324) regarding zakat assessment for 1440 AH. Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity. The Department has established that Zakat payer's commercial registration has been struck off and that it was not active during the years for which ZATCA conducted the assessment, as evidenced by the certificate of cancellation of the commercial registration. Therefore, the Department ruled to accept the appeal and cancel the primary Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

The Department convened to consider the Appeal filed on ... /.. /....., corresponding to../../... AD, by/ ... holder of National ID No. (...), in his capacity as owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1324) issued in Case No. (Z-52202-2021) related to tax assessment for 1440 AH filed by Appellant against ZATCA, in which the Primary Department decided as follows:

Dismiss the Case filed by the Plaintiff/....., TIN No. (....), against the Defendant/ ZATCA for not filing an objection to the Defendant's Decision during the specified period.

Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:

Zakat payer is objecting to the appealed primary Decision, arguing that ZATCA conducted an assessment on a registration that was canceled in 1436 AH and that the business had ceased operations since 1426 AH. This indicates that ZATCA conducted assessment on funds that were not subject to Zakat in the first place. Furthermore, failure to renew the registration is evidence of the cessation of business activities, as confirmed by the Ministry of Commerce. Therefore, Zakat payer requests to overturn the appealed primary Decision and consider its case on merits based on the aforementioned reasons.

On Monday, 04/08/1443 AH corresponding to 07/03/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary

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Department. ZATCA also argued that Zakat payer did not object to ZATCA's Decision within the prescribed period, rendering ZATCA's Decision final and immune from appeal, citing Article (2) of Tax Dispute and Violation Committee Procedures As such, ZATCA requests that the Department does not accept any new requests from Zakat payer, citing Article (186) of the Law of Civil Procedure. ZATCA, accordingly, maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons.

On Wednesday, 20/08/1443 AH corresponding to 23/03/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits, Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity, However, ZATCA requested dismissing Zaka payer's appeal and upholding Primary Department's Decision. Upon careful consideration by the Department of the dispute regarding 1440 AH, and after examining the Case file, it has been established that Zakat payer's commercial registration was canceled and that Zakat payer was not actively engaged in business during the years for which ZATCA conducted an assessment, prior to the date of cancellation as evidenced by the certificate of cancellation issued by the Ministry of Commerce. Given that Zakat payer has not been shown to have carried on any business activities during the disputed years , it is clear that ZATCA's Decision to conduct an assessment on Zakat payer was not based on a valid legal foundation. Consequently, the Department finds that ZATCA's Decision to conduct an assessment was flawed due to a defect in its reasoning, rendering it an invalid administrative Decision as it lacks a fundamental element of a valid administrative Decision. This fact is not prejudiced by the legal provision providing that ZATCA's Decision becomes final after the lapse of the period specified by the law for objecting to it, as this immunity does not extend to administrative Decisions that are marred by a defect in their reasoning. Such immunity applies only to Decisions that are valid and have all the legally required elements. Therefore, this Department has decided to cancel ZATCA's assessment Decision and the Decision of First Department for Determination of Income Tax Violations and Disputes in Riyadh.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ ....., C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1324) issued in Case No. (Z-52202-2021) in connection with zakat assessment for 1440 AH.

Second: On Merits:

Overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh and cancel ZATCA's disputed assessment, according to Grounds and reasons stated herein.

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Keywords
Zakat - Accounts - Cancellation of Commercial Registration - Acceptance of Appeal - Cancellation of Primary Department Decision

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IFR-2021-1325) regarding zakat assessment for 1441 AH. Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity. The Department has established that Zakat payer's commercial registration has been struck off and that it was not active during the years for which ZATCA conducted the assessment, as evidenced by the certificate of cancellation of the commercial registration. Therefore, the Department ruled to accept the appeal and cancel the primary Decision.

Instruments:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts:

To consider the appeal filed on .. /.. /..., corresponding to../../...AD, by/ ..., ID No. (...) in his capacity as owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1325) issued in Case No. (Z-52204-2021) related to tax assessment for 1441 AH filed by Appellant against ZATCA, in which the Primary Department decided as follows:
Dismiss the Case filed by the Plaintiff/....., TIN No. (....), against the Defendant/ ZATCA for not submitting an objection to the Defendant's Decision during the specified period.
Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:
Zakat payer is objecting to the appealed primary Decision, arguing that ZATCA conducted an assessment on a registration that was canceled in 1436 AH and that the business had ceased operations since 1426 AH. This indicates that ZATCA conducted assessment on funds that were not subject to Zakat in the first place. Furthermore, failure to renew the registration is evidence of the cessation of business activities, as confirmed by the Ministry of Commerce. Therefore, Zakat payer requests to overturn the appealed primary Decision and consider its case on merits based on the aforementioned reasons.
On Monday, 04/08/1443 AH corresponding to 07/03/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary

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Department. ZATCA also argued that Zakat payer did not object to ZATCA's Decision within the prescribed period, rendering ZATCA's Decision final and immune from appeal, citing Article (2) of Tax Dispute and Violation Committee Procedures As such, ZATCA requests that the Department does not accept any new requests from Zakat payer, citing Article (186) of the Law of Civil Procedure. ZATCA, accordingly, maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons.

On Wednesday, 20/08/1443 AH corresponding to 23/03/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits, Zakat payer's appeal centers on the fact that the disputed assessment conducted by ZATCA was imposed on a struck off registration due to the cessation of the related activity, However, ZATCA requested dismissing Zaka payer's appeal and upholding Primary Department's Decision. Upon careful consideration by the Department of the dispute regarding 1441 AH, and after examining the Case file, it has been established that Zakat payer's commercial registration was canceled and that Zakat payer was not actively engaged in business during the years for which ZATCA conducted an assessment, prior to the date of cancellation as evidenced by the certificate of cancellation issued by the Ministry of Commerce. Given that Zakat payer has not been shown to have carried on any business activities during the disputed years , it is clear that ZATCA's Decision to conduct an assessment on Zakat payer was not based on a valid legal foundation. Consequently, the Department finds that ZATCA's Decision to conduct an assessment was flawed due to a defect in its reasoning, rendering it an invalid administrative Decision as it lacks a fundamental element of a valid administrative Decision. This fact is not prejudiced by the legal provision providing that ZATCA's Decision becomes final after the lapse of the period specified by the law for objecting to it, as this immunity does not extend to administrative Decisions that are marred by a defect in their reasoning. Such immunity applies only to Decisions that are valid and have all the legally required elements. Therefore, this Department has decided to cancel ZATCA's assessment Decision and the Decision of First Department for Determination of Income Tax Violations and Disputes in Riyadh.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ ....., C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2021-1325) issued in Case No. (Z-52204-2021) in connection with zakat assessment for 1441 AH.

Second: On Merits:

Overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh and cancel ZATCA's disputed assessment, according to Grounds and reasons stated herein.

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Decision No. IR-2022-91
Case No. Z-30615-2020

Keywords
Zakat - Accounts - Capital Increase - Payables - Provision for Obsolete Inventory - Advance Payments - Partner's Current Account

Abstract

The Appellant is requesting both (ZATCA / Zakat payer) to cancel Primary Decision No. (IZD-2020-171) in connection with zakat assessment for the period (2010-2016). Regarding Zakat payer's appeal on the item (capital increase for 2011), Zakat payer's appeal centers on its objection to the inclusion of retained earnings used for capital increase in zakat declaration for the same year, according to the opening balance as it would lead to double taxation of zakat. This Department has found that ZATCA's assessment for that year was made after the prescribed period for making amendments to Zakat payer's declaration had expired, which is five years from the final deadline for Zakat payer to submit its zakat declaration for each year. Regarding ZATCA's appeal on the items (trade payables for the period from 2010 to 2016), (provision for obsolete inventory for 2013), (advance payments for 2015), and (partner's current account for 2015), the appeal centers on the Primary Department's acceptance of Zakat payer's objection regarding these items. However, this Department has found that the primary Decision was valid. The Department hereby ruled to accept Zakat payer's appeal and dismiss ZATCA's appeal.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal filed on .. /../.. AH, corresponding to ../../.. AD, by/ (.....Co.), and the appeal filed on .../.../... AH, corresponding to .../.../... AD, By ZATCA with regard to First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-171) issued in Case No. (Z-7693-2019) in connection with zakat assessment for the period (2010-2016), filed by the Appellant against ZATCA, in which the primary Decision stated as follows:

In from:

Accept the Case filed by the Plaintiff (..... Company), C.R. No. (...) in form.

On Merits:

1. Dismiss the objection filed by the Plaintiff (.....Co.), C.R. No. (...) With regard to the item (import discrepancies for the period from 2010 to 2016).
2. Dismiss the objection filed by the Plaintiff (.....Co.), C.R. No. (...) With regard to the item (temporary expenses for 2010).
3. Accept the objection filed by the Plaintiff (.....Co.), C.R. No. (...) With regard to the item (accounts payable for the period from 2010 to 2016).

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4. Dismiss the objection filed by the Plaintiff (.....Co.), C.R. No. (...) With regard to the item (accounts receivable for the period from 2010 to 2016).
5. Dismiss the objection filed by the Plaintiff (.....Co.), C.R. No. (...) With regard to the item (capital increase for 2011).
6. With regard to the item (related party transactions for the years 2011, 2013, 2014, and 2016).
   A. Accept the objection filed by the Plaintiff (.....Co.), C.R. No. (...) For 2011 and 2016.
   B. Reject objection raised by Plaintiff (.... Company), CR. No. (2050042291), for 2013 and 2014.
7. Dismiss the objection filed by the Plaintiff (.....Co.), C.R. No. (...) With regard to the item (bad debts provision for 2012).
8. Accept the objection filed by the Plaintiff (.....Co.), C.R. No. (...) With regard to the item (provision for obsolete inventory for 2013).
9. Amend Defendant's Decision regarding the item (advance payment for the period from 2013-2016).
10. Dismiss the objection filed by the Plaintiff (.....Co.), C.R. No. (...) With regard to the item (provision for doubtful debts for 2013).
11. Accept the objection filed by the Plaintiff (.....Co.), C.R. No. (...) With regard to the item (partner's current account for 2015).
12. Dismiss the objection filed by the Plaintiff (.....Co.), C.R. No. (...) With regard to the item (provision for Zakat for 2015).

Dissatisfied with that Decision, both parties filed a statement of appeal summarized as follows:

As for Zakat Payer's appeal against Primary Department's Decision, Zakat Payer's appeal involves: With respect to the item (capital increase for 2011), Zakat payer claims that it was not taken into account that the retained earnings balance used in the capital increase was included in zakat declaration filed for the same year based on the opening balance of (SAR 2,608,642), i.e., before the deduction of (SAR 1,300,000) used in the capital increase. Consequently, including it again constitutes double taxation of zakat, and therefore Zakat payer is requesting to cancel the primary Decision regarding the appealed items for the aforementioned reasons.

ZATCA also did not accept the Decision and subsequently filed an appeal against the contested Decision by virtue of a statement of appeal including the following claims:

With respect to ZATCA's appeal on the item (accounts payable for the period from 2010 to 2016), ZATCA clarifies that the aging schedule of debts cannot be relied upon to determine Zakatable year (Al Hawl). Instead, Zakatable year is determined through a statement of the item's movement and the reason for the indebtedness, which has not been provided for comparison with the approved financial statements. Therefore, the comparison was made between the opening and closing balances, and the amount that had completed Zakatable year was taken according to the financial statements. The Primary Department has concluded by canceling ZATCA's action, as the aging schedule of debts confirmed the balance that had completed Zakatable year. With regard to the item (provision for obsolete inventory for 2013), ZATCA clarifies that it was included in the inventory analysis for both 2014 and 2015, as well as in the movement of zakat provision. Additionally, the complete financial statements for 2013 have not been submitted to verify when the provision was established. With regard to the item (advance payments for 2015), ZATCA clarifies that the opening balance shown in the item's movement and the financial statements do not match. As for the item (partner's current account for 2015), Zakat payer's inclusion of this amount in zakat base is considered an acknowledgment that Zakatable year has been completed for this item, and the current account was not closed

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in 2015. As such, ZATCA maintains the validity and soundness of its procedure and requests to uphold its procedure and overturn the primary Decision regarding the appealed items for the aforementioned reasons.

On Monday,23/05/1443 AH corresponding to 27/12/2021 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming the validity of the primary Decision on the appealed item. Furthermore, the issues raised by Zakat payer do not deviate from what was previously presented and responded to by ZATCA. ZATCA reaffirms its position as outlined in the memorandum submitted to the Primary Department to avoid repetition. ZATCA clarifies that the capital increase was carried out in accordance with the statement of changes in partners' equity, which clearly shows a transfer from the opening balance to the partners' current account. Consequently, Zakatable year has elapsed on this increase, and therefore it must be added to zakat base according to Article (4) of the Implementing Regulations for Zakat Collection. As such, ZATCA requests that the Department does not accept any new requests from Zakat payer, citing Article (186) of the Law of Civil Procedure. ZATCA, accordingly, maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons.

On Wednesday, 29/07/1443 AH corresponding to 02/03/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision.Therefore the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer and ZATCA, the Department found that the conditions for considering appeal were met in form as stipulated by the relevant laws, regulations and Decisions. Therefore, the two appeals are accepted in form due to the fact of being filed by parties having capacities and within the statutory period.

On Merits, As for Zakat payer's appeal regarding the item (capital increase item for 2011).Zakat payer's appeal is based on the objection to including the retained earnings balance used in the capital increase within zakat declaration filed for the same year based on the opening balance, in order to avoid double taxation of zakat. Meanwhile, ZATCA has maintained the validity of its procedure and requests that Zakat payer's appeal be dismissed and the primary Decision be upheld. The Department has established that ZATCA's assessment for that year was made after the expiration of the prescribed period for amending Zakat payer's declaration, which is stipulated to be five years from the final deadline for Zakat payer to submit their zakat declaration for each year, and considering that these rules were established to ensure the stability of transactions and to prevent Zakat payers from experiencing uncertainty without a defined period within which they can be assured that their financial position will not be disrupted, which has been proven in Zakat payer's objection against ZATCA, and since this matter does not result in Zakat payer being absolved of their legal obligation if, in fact, they are liable for such obligation, but rather its effect is a procedural matter related to ZATCA's right to reinitiate the assessment after the expiration of the prescribed period, this Department concludes that ZATCA's action in making such amendments is invalid. Accordingly, this Department decides to accept Zakat payer's appeal and overturn the primary Decision.

Regarding ZATCA's appeal on the item (accounts payable for the period from 2010 to 2016), ZATCA's appeal centers on the Primary Department's acceptance of Zakat payer's objection to this item, despite Zakat payer's failure to provide a statement of the

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transactions and the reason for the indebtedness for comparison with the approved financial statements. Having considered the subject matter of dispute, the Department has established the validity of the conclusion made by the Primary Department, issuer of the appealed Decision. The reasons upon which that Decision was based are sufficient to uphold it. Accordingly, this Department hereby dismisses ZATCA's appeal and upholds the primary Decision regarding this item.

Regarding ZATCA's appeal on the item (provision for obsolete inventory for 2013), ZATCA's appeal centers on the Primary Department's acceptance of Zakat payer's objection to this item, despite Zakat payer's failure to provide verified financial statements showing the date the provision was made. Having considered the subject matter of dispute, the Department has established the validity of the conclusion made by the Primary Department, issuer of the appealed Decision. The reasons upon which that Decision was based are sufficient to uphold it. Accordingly, this Department hereby dismisses ZATCA's appeal and upholds the primary Decision regarding this item.

Regarding ZATCA's appeal on the item (advance payments for 2015), ZATCA's appeal centers on the Primary Department's acceptance of Zakat payer's objection to this item, despite the fact that the opening balance shown in the financial statements does not match the opening balance shown in the detailed movement of advance payments. Having considered the subject matter of dispute, the Department has established the validity of the conclusion made by the Primary Department, issuer of the appealed Decision. The reasons upon which that Decision was based are sufficient to uphold it. Accordingly, this Department hereby dismisses ZATCA's appeal and upholds the primary Decision regarding this item.

Regarding ZATCA's appeal on the item (partner's current account for 2015), ZATCA's appeal centers on the Primary Department's acceptance of Zakat payer's objection to this item, despite Zakat payer's acknowledgment that Zakatable year had passed for this item by including it in zakat calculation for the disputable year. Having carefully considered the subject matter of dispute, this Department has established the validity of the conclusion of the appealed Department, and that the reasons upon which it based its Decision are sufficient to uphold this Decision. Since the Department did not observe any matters that deserve correction or commentary in light of Documents provided by ZATCA before this Department. Therefore, the Department concludes that what has been presented has not affected the outcome of the primary Decision regarding this item. As such, this Department decides to dismiss ZATCA's appeal and uphold the primary Decision regarding this item.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ (..... Co.), C.R. No. (...), TIN (...), and the appeal filed by ZATCA against First Department for the Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-171), issued in Case No. (Z-7693-2019), in connection with zakat assessment for the period (2010-2016).

Second: On Merits:

1. Accept the appeal filed by Zakat payer regarding the item (capital increase for 2011) and overturn the Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds and merits mentioned therein.
2. Dismiss the appeal filed by ZATCA regarding the item (accounts payable for the period from 2010 to 2016) and uphold the Decision taken by the First Department for

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Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds and merits mentioned therein.

3. Dismiss the appeal filed by ZATCA regarding the item (provision of obsolete inventory for 2013) and uphold the Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds and merits mentioned therein.
4. Dismiss the appeal filed by ZATCA regarding the item (advance payments for 2015) and uphold the Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds and merits mentioned therein.
5. Dismiss the appeal filed by ZATCA regarding the item (partner's current account for 2015) and uphold the Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds and merits mentioned therein.

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

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Decision No. IR-2022-170
Case No. Z-30500-2020

Keywords
Zakat - Accounts - Salaries and Bonuses of Board Members - Acceptance of Appeal - Overturn Primary Department Decision

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (ISZR-2020-189) regarding zakat assessment for the period from 2008 to2015. With respect to the item (salaries and bonuses of board members), Zakat payer's appeal is based on the argument that this item should be deducted as it is supported by documentation and is necessary for the operation of the business that generates taxable income. The Department has found that, for the period from 2008 to 2012, ZATCA's assessment was made after the prescribed period for making amendments to Zakat payer's declaration. Therefore, the Department concludes that ZATCA's action in making these amendments was invalid. For the period from 2013 to 2016, the Department found that ZATCA did not present any evidence to challenge the documentation provided by Zakat payer to support its claim. Therefore, the Department accepts Zakat Payer's appeal and overturns Primary Department's Decision.

Instruments:

- Tax Dispute and Violation Committee Procedures issued by Royal Decree No. (26040) dated 21/04/1441 AH

Facts:

The Department convened to consider the appeal filed on.../../... AH, corresponding to .../.../... /..AD, by/ (...), ID No. (...) in his capacity as Manager of Appellant Enterprise, under its commercial registration, against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-189) issued in Case No. (Z-10801-2019), in connection with Zakat assessment for the period from 2008 to 2015, filed by the Appellant against ZATCA, in which the primary Decision stated as follows:

First: Accept the Case filed by the Plaintiff/ (.....Enterprise), C.R. No. (...), in form.

Second: On Merits:

1. Dismiss the Case with respect to the item (Salaries and Bonuses of Board Members).
2. Resolution of dispute related to the item (Import Discrepancies).

Since the aforementioned Decision was not accepted by the Zakat Payer (... Est.), it presented a statement of appeal to the Department, summarized as follows:

Zakat payer is objecting to the appealed primary Decision. Regarding the item (salaries and bonuses of board members), Zakat payer is requesting to deduct all salaries and wages from zakat base since they are expenses that have been paid and are no longer its liability. Additionally, the reason for not providing a social security certificate, upon which the

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Primary Department based its rejection Decision, is that the social security Law has a specific age limit for registration. Therefore, the registration of board members was excluded due to exceeding this age limit. Furthermore, a portion of the rejected amounts is due to exceeding the maximum allowable salary for registration. Moreover, there is evidence of the payment of salaries to board members in the form of contracts, payrolls, and bank transfers. Therefore, Zakat payer requests to overturn the primary Decision due to the aforementioned reasons.

The Department decided to open the pleading. Therefore, ZATCA submitted a Reply on 16/08/1442 AH, corresponding to 29/03/2021 AD, in response to Zakat payer's appeal. In summary the Reply included as follows: ZATCA reaffirms its position presented before the Primary Department. It further asserts that it did not accept this item because Zakat payer failed to provide evidence of the social security registration of the board members for the disputed years, in accordance with Article (5.2) and Article (20.3) of the Implementing Regulations for Zakat Collection. Zakat payer did not provide a social security certificate to the Primary Department as proof of the registration of salaries and bonuses. As such, ZATCA requests that no new Documents be accepted from Zakat payer that were not submitted during the examination and objection phases. ZATCA accordingly maintains the correctness and validity of its action, and requests that Zakat payer's appeal be dismissed and the primary Decision be upheld based on the aforementioned reasons.

On Tuesday, dated 29/06/1443 Ah corresponding to01/02/2022 AD, the Department decided to hold an electronic pleading session for a period of ten (10) days, During this pleading, Zakat payer submitted some documentation.

On Wednesday, 12/09/1443 AH corresponding to 06/04/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits, with regard to the item (salaries and bonuses of board members), Zakat payer's appeal is based on the argument that this item should be deducted as it is supported by documentation and is necessary for the operation of the business that generates taxable income. However, ZATCA has maintained the correctness and validity of its procedures and requests to dismiss Zakat payer's appeal and uphold the primary Decision. Having carefully considered the subject matter of dispute, and after examining the case file with regard to this disputed item for the period from 2008 to 2012, the Department has established that ZATCA's assessment for that year was made after the expiration of the prescribed period for amending Zakat payer's declaration, which is stipulated to be five years from the final deadline for Zakat payer to submit their zakat declaration for each year, and considering that these rules were established to ensure the stability of transactions and to prevent Zakat payers from experiencing uncertainty without a defined period within which they can be assured that their financial position will not be disrupted, which has been proven in Zakat payer's objection against ZATCA, and since this matter does not result in Zakat payer being absolved of their legal obligation if, in fact, they are liable for such obligation, but rather its effect is a procedural matter related to ZATCA's right to reinitiate the assessment after the expiration of the prescribed period, this

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Department concludes that ZATCA's action in making such amendments is invalid. Accordingly, this Department decides to accept Zakat payer's appeal and overturn the primary Decision.

As for the dispute concerning this item for the period from 2013 to 2016, and after carefully considering the subject matter of dispute and examining the case file, the Department has found that Zakat payer has proven that these expenses were incurred with supporting Documents. ZATCA's argument that the recipients of these salaries and bonuses were not registered with social security does not undermine Zakat payer's right to deduct these expenses, as long as Zakat payer has proven that they were incurred. Therefore, this Department concludes that Zakat payer's position is valid. Furthermore, ZATCA's argument that new Documents cannot be accepted at this stage is also without merit, as Zakat payer has the right to present evidence to support its claim at any stage of the proceedings, in accordance with Article (23) of the Tax Dispute and Violation Committee Procedures. Since ZATCA has not presented any evidence to challenge the documentation provided by Zakat payer, this Department has decided to accept Zakat payer's appeal and overturn the primary Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ (.....Enterprise), C.R. No. (...), TIN (...), against Second Department for the Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-189) issued in Case No. (Z-10801-2019), in connection with Zakat assessment for the period from 2008 to 2015.

Second: On Merits:

Accept Zakat payer's appeal regarding the item (Salaries and Bonuses of Board Members), and overturn the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the Grounds and merits mentioned therein.

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

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Decision No. IR-2022-178
Case No. Z-30547-2020

Keywords
Zakat - Accounts - Shareholders' Credit Balance and Related Party Credit Balance - Bank Overdraft Balance - Land Investments - Equity Investments - Short-Term Loans

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (Z-9814-2019) regarding zakat assessment for 2017. With respect to the items (shareholders' credit balance, related parties credit balance, short-term loans, other credit balances, and advance payments), (bank overdraft balance), (land investments), and (equity investments); the Committee has found, with respect to shareholders' credit balance and related parties credit balance, that Zakat payer did not object to shareholders' credit balance, and the Facts and reasons of the Primary Department's Decision did not include a discussion of it, but rather Zakat payer's objection was to the amounts added to that balance for related parties. With respect to short-term loans, it appears from reviewing ZATCA's assessment that ZATCA added what it considered to be used in additions to assets, and since Zakat payer acknowledged in its appeal that those amounts are related to the supply of project materials, The Department, hereby, has ruled to dismiss the appeal related to short-term loans, disregard shareholders' credit balance, and accept the remaining items.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened its session to consider the Appeal filed on 02/04/1442 AH corresponding to 15/11/2020 AD, by (.....), ID No. (.....), in his capacity as the Appellant Company's Attorney under POA No.(...)against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No (IZD-2020-186) issued in Case No. (Z-9814-2019) in connection with zakat assessment for 2017, in the Case filed by the Appellant against ZATCA, in which the primary Decision ruled as follows:

In from:

Accept the Case filed by the Plaintiff (..... Company), C.R. No. (...) in form.

On Merits:

1. Dismiss the objection filed by the Plaintiff (.....Co.), C.R. No. (...) With respect to the item shareholders' credit balance, related party credit balance, short-term loans, other credit balances, creditors' balance and advance payments.

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2. Dismiss the objection filed by the Plaintiff (.....Co.), C.R. No. (...) With respect to the item bank overdraft balance.
3. Dismiss the objection filed by the Plaintiff (.....Co.), C.R. No. (...) With respect to the item land investments.
4. Dismiss the objection filed by the Plaintiff (.....Co.), C.R. No. (...) With respect to the item equity investments.
5. Resolution of dispute related to the item financial investments.

Since this Decision was not accepted by Zakat Payer (.... company), he submitted a statement of appeal, which contained the following:

Zakat payer is objecting to the appealed primary Decision. As for the item (shareholders' credit balance, related party credit balance, short-term loans, other credit balances, and advance payments) Zakat payer claims that shareholders' credit balance, which has completed a full year according to the financial statements, amounts to (SAR 58,995,985), and not the (SAR 59,578,230) added by ZATCA, because the difference is the result of a transaction totaling (SAR 582,245). As for other credit balances, creditors' balance and advance payments, as well as the suppliers added by ZATCA, there is no explanation provided by ZATCA regarding these balances so that they can be reviewed, responded to, and determine which of them have completed a full year. As for short-term financing loans amounting to (SAR 3,842,556), these represent documentary credit invoices for the Company's suppliers to supply project materials. Documentary credits are opened for these suppliers by the banks, and then financing for the invoices is requested from the banks for a maximum period of three or six months from the short-term loan limit. The loan is then repaid to the bank. As such, Zakat payer is requesting not to add the item to Zakat base. As for bank overdraft balance, ZATCA has not specified what Documents are required. However, the required Documents have been submitted, including a statement showing the movement of each bank account during the year as well as opening and closing balances. As for the discrepancy between the book balance and the bank statement, amounting to (SAR 195,415), this is due to the issuance of cheques in 2016 that were not cashed until a later date in 2017, the details of which are attached to the case file. Additionally, the accounts are overdrafts from the bank to finance working capital and project expenses during the year, and they are subject to deposits and transfers of receipts and projects throughout the year. They are not a fixed, recurring balance but rather fluctuate throughout the year. As for land investments, ZATCA has not provided details of the amount to enable the submission of supporting Documents and to determine what is registered in the name of the Company or any of the shareholders that can be deducted from Zakat base within the limits of their credit balance in the Company. As for equity investments, the excluded amount pertains to the investment in the cooperative society as it is a subsidiary company in which Zakat payer has invested and pays Zakat on its invested share. Therefore, Zakat payer requests the cancellation of the appealed primary Decision due to the aforementioned reasons.

On Tuesday, dated 29/06/1443 AH corresponding to 01/02/2022 AD, the Department decided to hold an electronic pleading session for (10) days. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary Department. Furthermore, regarding the item (shareholders' credit balance, related party credit balance, short-term financing loans, other credit balances, and advance payments), ZATCA clarified that it added the balances of these items due to the completion of a full Zakatable year, as per the financial statements, after comparing opening and closing balances and adding the lower of the two, in accordance with Article (4.5) of the Implementing Regulations for Zakat Collection. Additionally, Zakat payer failed to submit the required Documents, and therefore its objection has been rejected based Article (20.3) of the Implementing Regulations for Zakat Collection. With respect

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to bank overdraft balance, ZATCA added this item after comparing opening and closing balances and adding the lower of the two, in application of Fatwa No. (22384) of 1406 AH and Fatwa No. (22665) of 1424 AH. The Primary Department has also reviewed these statements and found that they were not certified by the authorized person and were not extracted from the accounting system. As such, Zakat payer's objection was dismissed based on
(20.3) of the Implementing Regulations for Zakat Collection. With respect to (land investments), based on Article (4.1) and
Article (20.3) of the Implementing Regulations for Zakat Collection, and since Zakat payer has not provided any evidence of ownership of these lands, Zakat payer's objection has been dismissed. With respect to (equity investments), based on
Article (20.3) of the Implementing Regulations for Zakat Collection, and since Zakat payer has not provided evidence that the investment is registered in the Company's name, and given the legal principle stating: "The burden of proof falls upon the person making a claim", Zakat payer's objection was dismissed. Moreover, ZATCA requests that the Department does not accept any new requests from Zakat payer, based on Article (186) of the Civil Procedure Law. ZATCA also maintains the validity and correctness of its procedures and requests to dismiss Zakat payer's appeal and the uphold the primary Decision due to the aforementioned reasons.
On Saturday, 22/09/1443 AH corresponding to 23/04/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.
On merits, regarding Zakat payer's appeal concerning the item (shareholders' credit balance, related party credit balance, short-term financing loans, other credit balances, and advance payments), Zakat payer's appeal centers on the shareholders' credit balance. Zakat payer argues that the amount subject to Zakat, as per the financial statements, is (SAR 58,995,985), not (SAR 59,578,230) as added by ZATCA, because the difference of (SAR 582,245) is due to a transaction. As for other credit balances, creditor's balances, advance payments, and suppliers added by ZATCA, Zakat payer's objection centers on ZATCA's failure to provide a detailed explanation of these balances so that they can be reviewed, responded to, and determine which of them have completed a full Zakatable year. As for short-term financing loans, these are essentially documentary credit invoices for the Company's suppliers to supply project materials. Meanwhile, ZATCA has maintained the validity of its procedure and requests that Zakat payer's appeal be dismissed and the primary Decision be upheld. Upon careful consideration of dispute and after examining the case file, it has been found that Zakat payer did not initially object to the shareholders' credit balance. The findings and reasons of the Primary Department's Decision did not discuss this balance. Instead, Zakat payer's objection was to the additional balances added for related parties. Upon reviewing Zakat payer's appeal regarding related parties' balances, it was found that these balances pertain to (..... Company...), (... Enterprise), and (... Factory). By tracking the movement of these accounts, it was determined that the only balance not subject to Zakat among the amounts due to these establishments is the amount owed to (... Factory), totaling (SAR 43,091).

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Therefore, this Department has decided to amend the primary Decision by ruling that this amount should not be added to Zakat payer's Zakat base.

Regarding other credit balances, creditors' balance, and advance payments, it has been found that the Primary Department's Decision shows that Zakat payer requested ZATCA to clarify the reasons for its Decision, so that Zakat payer could respond and provide the relevant account movements and determine what has completed a full Zakatable year. Since ZATCA has not provided this Department with a clarification regarding the details of these accounts, and since ZATCA's claim is not supported by substantial evidence, and since the principle is to accept what is stated in Zakat payer's declaration for calculating its Zakat base unless ZATCA provides evidence that can be relied upon to deviate from what is contained in the declaration, this Department has decided to accept Zakat payer's appeal and overturn the primary Decision in this regard.

Regarding short-term loans, upon examining ZATCA's calculations, it has been found that ZATCA has included what it considered to be used in additions to assets. Since Zakat payer acknowledged in their appeal that these amounts are related to the supply of project materials, it is evident that there is a direct link between the amounts added to Zakat base and the amounts deducted from it. Therefore, this Department has decided to dismiss Zakat payer's appeal and uphold the primary Decision.

Regarding Zakat payer's appeal concerning the item (bank overdraft balance), Zakat payer's appeal is based on ZATCA's failure to clarify the required Documents. As a result, the Department decided to dismiss Zakat payer's 's objection. Meanwhile, ZATCA has maintained the validity of its procedure and requests that Zakat payer's appeal be dismissed and the primary Decision be upheld. Upon careful consideration of dispute and after examining the Documents of the case file, it has been found that the disputed balances have not completed a full Zakatable year. Therefore, this Department has decided to accept Zakat payer's appeal and overturn the primary Decision regarding this item.

Regarding Zakat payer's appeal concerning the item (land investments), Zakat payer's appeal is based on ZATCA's failure to specify the details of the amount in order to provide supporting Documents and determine what is registered in the name of the Company or one of the shareholders that can be deducted from Zakat base up to the limit of their credit balance with the Company. Meanwhile, ZATCA has maintained the validity of its procedure and requests that Zakat payer's appeal be dismissed and the primary Decision be upheld. Upon careful consideration of dispute and after examining the Documents of the case file, it has been found that the Primary Department's Decision shows that Zakat payer requested ZATCA to provide reasons for its Decision, specifically regarding the details of the amount related to land investments, so that Zakat payer could provide the required Documents and determine what is registered in the name of the Company or one of the shareholders. However, neither the Facts nor the reasons of the Primary Department's Decision indicate that ZATCA provided what Zakat payer requested. Furthermore, ZATCA has not provided this Department with a clarification regarding these lands. Therefore, this Department has decided to accept Zakat payer's appeal and overturn the primary Decision regarding this item.

Regarding Zakat payer's appeal concerning the item (equity investments), Zakat payer's appeal is based on the argument that the excluded amount pertains to an investment in (... Society), as it is a subsidiary company in which Zakat payer has invested and which pays Zakat on the invested share. Meanwhile, ZATCA has maintained the validity of its procedure and requests that Zakat payer's appeal be dismissed and the primary Decision be upheld. Upon careful consideration of dispute and after examining the Documents of the case file, given that Zakat payer has provided Documents proving its ownership of the disputed investment and has also provided evidence that the (... Society), in which it has

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invested, has paid Zakat. Therefore, this Department, hereby, has decided to accept Zakat payer's appeal and overturn the primary Decision regarding this item.
In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the Appeal filed by Zakat payer/(..... Co.), C.R No.(....), TIN (...), against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-186) issued in Case No. (Z-9814-2019), in connection with zakat assessment for 2017..
Second: On Merits:

1. Regarding the item (shareholders' credit balance, related party credit balance, short-term loans, other credit balances, and advance payments):
   A. Disregard Zakat payer's appeal with respect to shareholders' credit balance, in accordance with Grounds and merits mentioned herein.
   B. Accept Zakat payer's appeal with respect to related party credit balance, and amend the Decision of First Department for Determination of Income Tax Violations and Disputes in Dammam. The balance of (SAR 43,091), which is the amount due to those entities that has not yet completed a full year, shall not be added, in accordance with Grounds and merits mentioned herein.
   C. Accept Zakat payer's appeal with respect to other credit balances, credit balance, and advance payments, and overturn the Decision of the Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds and merits mentioned therein.
   D. Dismiss Zakat payer's appeal with respect to short-term loans, and uphold the Decision of the Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds and merits mentioned therein.
2. Accept Zakat payer's appeal with respect to the item (bank overdraft balance), and overturn the Decision of the Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds and merits mentioned therein.
3. Accept Zakat payer's appeal with respect to the item (land investments), and overturn the Decision of the Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds and merits mentioned therein.
4. Accept Zakat payer's appeal with respect to the item (equity investments), and overturn the Decision of the Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds and merits mentioned therein.

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

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-183
Case No. Z-65894-2021

Keywords
Zakat - Estimated - Diplomatic Organization - Estimated Assessment According to Financial Statements

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (ISR-2021-442) regarding zakat assessment for 2011. Zakat Payer's appeal centers on its objection to being considered a person subject to Zakat, given that the establishment agreement signed between it and the Saudi Arabian Government includes exemption from all direct and indirect taxes and other fees. Upon reviewing Zakat Payer's establishment agreement, which indicated in Article (4) that Zakat Payer's headquarters is in Riyadh, and whereas this Department has not found any justification to deprive Zakat Payer of the rights granted by that agreement, while ZATCA has not provided any justification to deviate from that, therefore, the Department, herby, ruled to accept the appeal and overturn the primary Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

To consider the appeal filed on .. /../... corresponding to .. ../../.. AD, by (.....), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2021-442) issued in Case No. (Z-20344-2020) related to Zakat assessment for 2011, filed by the Appellant against ZATCA, in which the Primary Department decided as follows:

Accept the Case filed by the Plaintiff (...), against Defendant/ZATCA in form, and reject the same on merits based on the abovementioned Grounds.

Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:

Zakat payer is objecting to the appeal primary Decision. Zakat payer is claiming that it is not a company registered in Saudi Arabia but rather a diplomatic organization affiliated with (... University), as stated in the establishment agreement and headquarters agreement signed between (...) and the Saudi Arabian Government. These agreements grant exemption to the establishment's funds from all types of taxes (direct and indirect), customs duties, and other fees. As such, Zakat payer requests to overturn the appealed primary Decision for the aforementioned reasons.

On Monday, 28/06/1443 AH corresponding to 31/01/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary

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Department. ZATCA also clarified that it maintains the merits of the primary Decision as ZATCA has estimated and imposed Islamic Zakat on the share of (...) Company, in the establishment (...), based on the financial statements of (...) Company, amounting to (SAR 36,66). ZATCA's action was based on Ministerial Letter No. (2740/4) dated 28/08/1403 AH, which stipulates the obligation of Zakat on companies in which government agencies have shares, and based on Fatwa No. (22665) dated 15/04/1424 AH, and Ministerial Letter No. (12385/1) dated 02/09/1425 AH. Regarding Zakat payer's claim that (...) Company is responsible for submitting declarations and paying dues and that this would lead to a double taxation, ZATCA affirms that Zakat payer is a legal entity that is separate from (...) Company due to the difference in financial liability. ZATCA has already accepted the deduction of investment in (...) Company from Zakat base of (...) Company. This demonstrates the validity of the Primary Department's Decision, subject of appeal. ZATCA requests that the Department does not accept any new Documents that Zakat payer has not previously submitted to ZATCA during the examination and objection phase. Additionally, ZATCA maintains the validity and correctness of its action and requests to dismiss Zakat payer 's appeal and uphold the primary Decision for the aforementioned reasons.

On Sunday, 19/07/1443 AH, corresponding to 20/02/2022 AD, upon reviewing Zakat payer's appeal, the Department requested that ZATCA provide information regarding the date on which (...) Company acquired the Saudi Arabian government's share in (...) Establishment, to be submitted within 15 days from this date.

On Thursday, 20/09/1443 AH corresponding to 21/04/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat payer's appeal is based on the objection to being considered a person subject to Zakat. This is because the establishment agreement signed between it and the Saudi Arabian Government includes exemption from all direct and indirect taxes and other fees. Meanwhile, ZATCA requested to dismiss Zakat payer's appeal and uphold the primary Decision. Having carefully considered the subject matter of the dispute and examined the Documents of the case file, and with regard to Zakat payer's appeal against Zakat assessment for the disputed year, this Department concludes that the central focus of the dispute between Zakat payer and ZATCA lies in whether Zakat payer should be considered a resident in KSA for the purposes of calculating Zakat on the Saudi partner's share. The Department has reviewed Zakat payer's establishment agreement, which stated in Article (4) that Zakat payer's headquarters is in Riyadh. Additionally, Article (16) of the same agreement, pertaining to privileges and immunities, stated that Zakat payer enjoys a number of privileges, including exemption of Zakat payer's funds, shares, and properties from all types of taxes (direct or indirect). Moreover, the same agreement stipulated all provisions of (...) University's privileges and immunities agreement shall be applied, and the preamble of the agreement establishing (...) Institution (Zakat payer) stipulated approval of the Arab member states of the agreement and its amendments. Upon reviewing several double taxation avoidance agreements concluded between the

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Saudi Arabian Government and other countries, the Department has found that these agreements mention Zakat as part of the taxes imposed in KSA and refer to it in the same context as income tax. This indicates the legislator's intention to consider Zakat as a direct tax in relation to the exemptions granted to international entities, unless otherwise specified. Furthermore, considering that the establishment agreement of the institution (...) is a diplomatic agreement, and KSA was a sovereign member and signatory thereto, committed to its provisions, and since KSA hosts this headquarters, it is evident that the establishment agreement encompasses all provisions related to the institution's relationship with the host state (KSA). Given that this agreement was approved by KSA after fulfilling all legal procedures, the waiver of the Saudi Arabian Government 's share to (...) Company does not affect the validity and correctness of the provisions contained therein, which gave rise to rights for Zakat payer. This is because the Government's waiver of this share did not include any amendments to the rights acquired by Zakat payer pursuant to that agreement. Since this Department has found no justification for denying Zakat payer of the rights granted by that agreement, and ZATCA has not provided any justification to deviate from that, and considering the legislator's approach in referring to Zakat in the context of direct taxes in tax treaties concluded with other countries, it is therefore determined that Zakat payer is not subject to Zakat or tax. Accordingly, this Department decides to accept Zakat payer's appeal and overturn the primary Decision.
In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal submitted by Zakat payer/ (...), TIN (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2021-442) issued in Case No. (Z-20344-2020) in connection with zakat assessment for 2011.
Second: On Merits:
Accept Zakat payer's appeal and overturn the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the Grounds and merits mentioned therein.

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Keywords
Zakat - Estimated - Diplomatic Organization - Estimated Assessment According to Financial Statements

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (ISR-2021-443), regarding zakat assessment for 2012. Zakat Payer's appeal centers on its objection to being considered a person subject to Zakat, given that the establishment agreement signed between it and the Saudi Arabian Government includes exemption from all direct and indirect taxes and other fees. Furthermore, the Department has established that the Saudi Arabian Government's waiver of its share did not involve any amendments to the rights acquired by Zakat payer pursuant to that agreement. Department also has found no justification for denying Zakat payer of the rights granted by that agreement, and ZATCA has not provided any justification to deviate from that. As such, the Department, hereby, ruled to accept Zakat payer's appeal.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on .../../... AH, corresponding to 19/08/2021 AD, by (...) institution, against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2021-443) issued in Case No. (Z-20348-2020), in connection with Zakat assessment for 2012, filed by the Appellant against ZATCA, in which the Primary Department ruled as follows:
Accept the Case filed by the Plaintiff/ (....) against Defendant/ZATCA in form, and reject the same on merits based on the abovementioned Grounds.
Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:
Zakat payer is objecting to the appeal primary Decision. Zakat payer is claiming that it is not a company registered in Saudi Arabia but rather a diplomatic organization affiliated with (... University), as stated in the establishment agreement and headquarters agreement signed between (...) and the Saudi Arabian Government. These agreements grant exemption to the establishment's funds from all types of taxes (direct and indirect), customs duties, and other fees. As such, Zakat payer requests to overturn the appealed primary Decision for the aforementioned reasons.
On Monday, 28/06/1443 AH, corresponding to 31/01/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary

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Department. ZATCA also clarified that it maintains the merits of the primary Decision as ZATCA has estimated and imposed Islamic Zakat on the share of (...) Company, in the establishment (...), based on the financial statements of (...) Company, amounting to (SAR 36,66). ZATCA's action was based on Ministerial Letter No. (2740/4) dated 28/08/1403 AH, which stipulates the obligation of Zakat on companies in which government agencies have shares, and based on Fatwa No. (22665) dated 15/04/1424 AH, and Ministerial Letter No. (12385/1) dated 02/09/1425 AH. Regarding Zakat payer's claim that (...) Company is responsible for submitting declarations and paying dues and that this would lead to a double taxation, ZATCA affirms that Zakat payer is a legal entity that is separate from (...) Company due to the difference in financial liability. ZATCA has already accepted the deduction of investment in (...) Company from Zakat base of (...) Company. This demonstrates the validity of the Primary Department's Decision, subject of appeal. ZATCA requests that the Department does not accept any new Documents that Zakat payer has not previously submitted to ZATCA during the examination and objection phase. Additionally, ZATCA maintains the validity and correctness of its action and requests to dismiss Zakat payer 's appeal and uphold the primary Decision for the aforementioned reasons.

On Sunday, 19/07/1443 AH, corresponding to 20/02/2022 AD, upon reviewing Zakat payer's appeal, the Department requested that ZATCA provide information regarding the date on which (...) Company acquired the Saudi Arabian government's share in (...) Establishment, to be submitted within 15 days from this date.

On Thursday, 20/09/1443 AH corresponding to 21/04/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat payer's appeal is based on the objection to being considered a person subject to Zakat. This is because the establishment agreement signed between it and the Saudi Arabian Government includes exemption from all direct and indirect taxes and other fees. Meanwhile, ZATCA requested to dismiss Zakat payer's appeal and uphold the primary Decision. Having carefully considered the subject matter of the dispute and examined the Documents of the case file, and with regard to Zakat payer's appeal against Zakat assessment for the disputed year, this Department concludes that the central focus of the dispute between Zakat payer and ZATCA lies in whether Zakat payer should be considered a resident in KSA for the purposes of calculating Zakat on the Saudi partner's share. The Department has reviewed Zakat payer's establishment agreement, which stated in Article (4) that Zakat payer's headquarters is in Riyadh. Additionally, Article (16) of the same agreement, pertaining to privileges and immunities, stated that Zakat payer enjoys a number of privileges, including exemption of Zakat payer's funds, shares, and properties from all types of taxes (direct or indirect). Moreover, the same agreement stipulated all provisions of (...) University's privileges and immunities agreement shall be applied on Zakat payer and the preamble of the agreement establishing (...) Institution (Zakat payer) stipulated approval of the Arab member states of the agreement and its amendments. Upon reviewing several double taxation avoidance agreements concluded

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between the Saudi Arabian Government and other countries, the Department has found that these agreements mention Zakat as part of the taxes imposed in KSA and refer to it in the same context as income tax. This indicates the legislator's intention to consider Zakat as a direct tax in relation to the exemptions granted to international entities, unless otherwise specified.

Furthermore, considering that the establishment agreement of the institution (...) is a diplomatic agreement, and KSA was a sovereign member and signatory thereto, committed to its provisions, and since KSA hosts this headquarters, it is evident that the establishment agreement encompasses all provisions related to the institution's relationship with the host state (KSA). Given that this agreement was approved by KSA after fulfilling all legal procedures, the waiver of the Saudi Arabian Government 's share to (...) Company does not affect the validity and correctness of the provisions contained therein, which gave rise to rights for Zakat payer. This is because the Government's waiver of this share did not include any amendments to the rights acquired by Zakat payer pursuant to that agreement. Since this Department has found no justification for denying Zakat payer of the rights granted by that agreement, and ZATCA has not provided any justification to deviate from that, and considering the legislator's approach in referring to Zakat in the context of direct taxes in tax treaties concluded with other countries, it is therefore determined that Zakat payer is not subject to Zakat or tax. Accordingly, this Department decides to accept Zakat payer's appeal and overturn the primary Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal filed by Zakat payer (...), TIN (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2021-443) issued in Case No. (Z-20348-2020) in connection with zakat assessment for 2012.

Second: On Merits:

Accept Zakat payer’s appeal and overturn the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the Grounds and merits mentioned therein.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-185
Case No. Z-66125-2021

Keywords
Zakat - Estimated - Diplomatic Organization - Estimated Assessment According to Financial Statements – Estimated Assessment - Zakat - Estimated - Diplomatic Organization

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (ISR-2021-446), regarding zakat assessment for 2015. Zakat Payer's appeal centers on its objection to being considered a person subject to Zakat, given that the establishment agreement signed between it and the Saudi Arabian Government includes exemption from all direct and indirect taxes and other fees. Furthermore, the Department has established that the Saudi Arabian Government's waiver of its share did not involve any amendments to the rights acquired by Zakat payer pursuant to that agreement. Department also has found no justification for denying Zakat payer of the rights granted by that agreement, and ZATCA has not provided any justification to deviate from that. As such, the Department, hereby, ruled to accept Zakat payer's appeal.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on .../../... AH, corresponding to ../../.. AD, by (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2021-446) issued in Case No. (Z-20359-2020), in connection with Zakat assessment for 2015, filed by the Appellant against ZATCA, in which the Primary Department ruled as follows:
Accept the Case filed by the Plaintiff (...), against Defendant/ZATCA in form, and reject the same on merits based on the abovementioned Grounds.
Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:
Zakat payer is objecting to the appealed primary Decision. Zakat payer is claiming that it is not a company registered in Saudi Arabia but rather a diplomatic organization affiliated with the League of Arab States, as stated in the establishment agreement and headquarters agreement signed between (...) and the Saudi Arabian Government. These agreements grant exemption to the establishment's funds from all types of taxes (direct and indirect), customs duties, and other fees. As such, Zakat payer requests to overturn the appealed primary Decision for the aforementioned reasons.

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On Monday, 28/06/1443 AH, corresponding to 31/01/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary Department. ZATCA also clarified that it maintains the merits of the primary Decision as ZATCA has estimated and imposed Islamic Zakat on the share of (...) Company, in the establishment (...), based on the financial statements of (...) Company, amounting to (SAR 36,66). ZATCA's action was based on Ministerial Letter No. (2740/4) dated 28/08/1403 AH, which stipulates the obligation of Zakat on companies in which government agencies have shares, and based on Fatwa No. (22665) dated 15/04/1424 AH, and Ministerial Letter No. (12385/1) dated 02/09/1425 AH. Regarding Zakat payer's claim that (...) Company is responsible for submitting declarations and paying dues and that this would lead to a double taxation, ZATCA affirms that Zakat payer is a legal entity that is separate from (...) Company due to the difference in financial liability. ZATCA has already accepted the deduction of investment in (...) Company from Zakat base of (...) Company. This demonstrates the validity of the Primary Department's Decision, subject of appeal. ZATCA requests that the Department does not accept any new Documents that Zakat payer has not previously submitted to ZATCA during the examination and objection phase. Additionally, ZATCA maintains the validity and correctness of its action and requests to dismiss Zakat payer 's appeal and uphold the primary Decision for the aforementioned reasons.

On Sunday, 19/07/1443 AH, corresponding to 20/02/2022 AD, upon reviewing Zakat payer's appeal, the Department requested that ZATCA provide information regarding the date on which (...) Company acquired the Saudi Arabian government's share in (...) Establishment, to be submitted within 15 days from this date.

On Thursday, 20/09/1443 AH corresponding to 21/04/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat payer's appeal is based on the objection to being considered a person subject to Zakat. This is because the establishment agreement signed between it and the Saudi Arabian Government includes exemption from all direct and indirect taxes and other fees. Meanwhile, ZATCA requested to dismiss Zakat payer's appeal and uphold the primary Decision. Having carefully considered the subject matter of the dispute and examined the Documents of the case file, and with regard to Zakat payer's appeal against Zakat assessment for the disputed year, this Department concludes that the central focus of the dispute between Zakat payer and ZATCA lies in whether Zakat payer should be considered a resident in KSA for the purposes of calculating Zakat on the Saudi partner's share. The Department has reviewed Zakat payer's establishment agreement, which stated in Article (4) that Zakat payer's headquarters is in Riyadh. Additionally, Article (16) of the same agreement, pertaining to privileges and immunities, stated that Zakat payer enjoys a number of privileges, including exemption of Zakat payer's funds, shares, and properties from all types of taxes (direct or indirect). Moreover, the same agreement stipulated all provisions of (...) University's privileges and immunities agreement shall be

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applied On Zakat payer, and the preamble of the agreement establishing (...) Institution (Zakat payer) stipulated approval of the Arab member states of the agreement and its amendments. Upon reviewing several double taxation avoidance agreements concluded between the Saudi Arabian Government and other countries, the Department has found that these agreements mention Zakat as part of the taxes imposed in KSA and refer to it in the same context as income tax. This indicates the legislator's intention to consider Zakat as a direct tax in relation to the exemptions granted to international entities, unless otherwise specified. Furthermore, considering that the establishment agreement of the institution (...) is a diplomatic agreement, and KSA was a sovereign member and signatory thereto, committed to its provisions, and since KSA hosts this headquarters, it is evident that the establishment agreement encompasses all provisions related to the institution's relationship with the host state (KSA). Given that this agreement was approved by KSA after fulfilling all legal procedures, the waiver of the Saudi Arabian Government 's share to (...) Company does not affect the validity and correctness of the provisions contained therein, which gave rise to rights for Zakat payer. This is because the Government's waiver of this share did not include any amendments to the rights acquired by Zakat payer pursuant to that agreement. Since this Department has found no justification for denying Zakat payer of the rights granted by that agreement, and ZATCA has not provided any justification to deviate from that, and considering the legislator's approach in referring to Zakat in the context of direct taxes in tax treaties concluded with other countries, it is therefore determined that Zakat payer is not subject to Zakat or tax. Accordingly, this Department decides to accept Zakat payer's appeal and overturn the primary Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal filed by Zakat payer (...), TIN (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2021-446) issued in Case No. (Z-20359-2020) in connection with zakat assessment for 2015.

Second: On Merits:

Accept Zakat payer’s appeal and overturn the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the Grounds and merits mentioned therein.

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Decision No. IR-2022-188
Case No. Z-66129-2021

Keywords
Zakat - Estimated - Diplomatic Organization - Estimated Assessment According to Financial Statements

Abstract

Appellant (Zakat Payer) requests overturning Primary Department's Decision No. (ISR-2021-447) regarding zakat assessment for 2016. Zakat Payer's appeal centers on its objection to being considered a person subject to Zakat, given that the establishment agreement signed between it and the Saudi Arabian Government includes exemption from all direct and indirect taxes and other fees. Furthermore, the Department has established that the Saudi Arabian Government's waiver of its share did not involve any amendments to the rights acquired by Zakat payer pursuant to that agreement. Department also has found no justification for denying Zakat payer of the rights granted by that agreement, and ZATCA has not provided any justification to deviate from that. Therefore, the Department accepts Zakat Payer's appeal.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on .../../... AH, corresponding to ../../.. AD, by (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2021-447) issued in Case No. (Z-20362-2020), in connection with Zakat assessment for 2016, filed by the Appellant against ZATCA, in which the Primary Department ruled as follows:

Accept the Case filed by Plaintiff/ Institution (....), (....), against Defendant/ZATCA in form, and reject the same on merits based on the abovementioned Grounds.

Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:

Zakat payer is objecting to the appealed primary Decision. Zakat payer is claiming that it is not a company registered in Saudi Arabia but rather a diplomatic organization affiliated with the League of Arab States, as stated in the establishment agreement and headquarters agreement signed between (...) and the Saudi Arabian Government. These agreements grant exemption to the establishment's funds from all types of taxes (direct and indirect), customs duties, and other fees. As such, Zakat payer requests to overturn the appealed primary Decision for the aforementioned reasons.

On Monday, 28/06/1443 AH, corresponding to 31/01/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to

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Zakat payer's appeal, reaffirming its previously stated position before the Primary Department. ZATCA also clarified that it maintains the merits of the primary Decision as ZATCA has estimated and imposed Islamic Zakat on the share of (...) Company, in the establishment (...), based on the financial statements of (...) Company, amounting to (SAR 36,66). ZATCA's action was based on Ministerial Letter No. (2740/4) dated 28/08/1403 AH, which stipulates the obligation of Zakat on companies in which government agencies have shares, and based on Fatwa No. (22665) dated 15/04/1424 AH, and Ministerial Letter No. (12385/1) dated 02/09/1425 AH. Regarding Zakat payer's claim that (...) Company is responsible for submitting declarations and paying dues and that this would lead to a double taxation, ZATCA affirms that Zakat payer is a legal entity that is separate from (...) Company due to the difference in financial liability. ZATCA has already accepted the deduction of investment in (...) Company from Zakat base of (...) Company. This demonstrates the validity of the Primary Department's Decision, subject of appeal. ZATCA requests that the Department does not accept any new Documents that Zakat payer has not previously submitted to ZATCA during the examination and objection phase. Additionally, ZATCA maintains the validity and correctness of its action and requests to dismiss Zakat payer 's appeal and uphold the primary Decision for the aforementioned reasons.

On Sunday, 19/07/1443 AH, corresponding to 20/02/2022 AD, upon reviewing Zakat payer's appeal, the Department requested that ZATCA provide information regarding the date on which (...) Company acquired the Saudi Arabian government's share in (...) Establishment, to be submitted within 15 days from this date.

On Thursday, 20/09/1443 AH corresponding to 21/04/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat payer's appeal is based on the objection to being considered a person subject to Zakat. This is because the establishment agreement signed between it and the Saudi Arabian Government includes exemption from all direct and indirect taxes and other fees. Meanwhile, ZATCA requested to dismiss Zakat payer's appeal and uphold the primary Decision. Having carefully considered the subject matter of the dispute and examined the Documents of the case file, and with regard to Zakat payer's appeal against Zakat assessment for the disputed year, this Department concludes that the central focus of the dispute between Zakat payer and ZATCA lies in whether Zakat payer should be considered a resident in KSA for the purposes of calculating Zakat on the Saudi partner's share. The Department has reviewed Zakat payer's establishment agreement, which stated in Article (4) that Zakat payer's headquarters is in Riyadh. Additionally, Article (16) of the same agreement, pertaining to privileges and immunities, stated that Zakat payer enjoys a number of privileges, including exemption of Zakat payer's funds, shares, and properties from all types of taxes (direct or indirect). Moreover, the same agreement stipulated all provisions of (...) University's privileges and immunities agreement shall be applied on Zakat payer and the preamble of the agreement establishing (...) Institution (Zakat payer) stipulated approval of the Arab member states of the agreement and its amendments. Upon reviewing several double taxation avoidance agreements concluded

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between the Saudi Arabian Government and other countries, the Department has found that these agreements mention Zakat as part of the taxes imposed in KSA and refer to it in the same context as income tax. This indicates the legislator's intention to consider Zakat as a direct tax in relation to the exemptions granted to international entities, unless otherwise specified. Furthermore, considering that the establishment agreement of the institution (...) is a diplomatic agreement, and KSA was a sovereign member and signatory thereto, committed to its provisions, and since KSA hosts this headquarters, it is evident that the establishment agreement encompasses all provisions related to the institution's relationship with the host state (KSA). Given that this agreement was approved by KSA after fulfilling all legal procedures, the waiver of the Saudi Arabian Government 's share to (...) Company does not affect the validity and correctness of the provisions contained therein, which gave rise to rights for Zakat payer. This is because the Government's waiver of this share did not include any amendments to the rights acquired by Zakat payer pursuant to that agreement. Since this Department has found no justification for denying Zakat payer of the rights granted by that agreement, and ZATCA has not provided any justification to deviate from that, and considering the legislator's approach in referring to Zakat in the context of direct taxes in tax treaties concluded with other countries, it is therefore determined that Zakat payer is not subject to Zakat or tax. Accordingly, this Department decides to accept Zakat payer's appeal and overturn the primary Decision.
In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal filed by Zakat payer (...), TIN (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2021-447) issued in Case No. (Z-20362-2020) in connection with zakat assessment for 2016.
Second: On Merits:
Accept Zakat payer's appeal and overturn the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the Grounds and merits mentioned therein.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-189
Case No. Z-66131-2021

Keywords
Zakat - Estimated - Diplomatic Organization - Estimated Assessment According to Financial Statements

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (ISR-2021-448), regarding zakat assessment for 2017. Zakat Payer's appeal centers on its objection to being considered a person subject to Zakat, given that the establishment agreement signed between it and the Saudi Arabian Government includes exemption from all direct and indirect taxes and other fees. Furthermore, the Department has established that the Saudi Arabian Government's waiver of its share did not involve any amendments to the rights acquired by Zakat payer pursuant to that agreement. Department also has found no justification for denying Zakat payer of the rights granted by that agreement, and ZATCA has not provided any justification to deviate from that. As such, the Department, hereby, ruled to accept Zakat payer's appeal.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal filed on .. /.. /... AH, corresponding to ... /.. /.. AD, by (.....), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2021-448) issued in Case No. (Z-20363-2020), in connection with Zakat assessment for 2017, filed by the Appellant against ZATCA, in which the Primary Department decided as follows:

Accept the Case filed by the Plaintiff (...), against Defendant/ZATCA in form, and reject the same on merits based on the abovementioned Grounds.

Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:

Zakat payer is objecting to the appeal primary Decision. Zakat payer is claiming that it is not a company registered in Saudi Arabia but rather a diplomatic organization affiliated with (... University), as stated in the establishment agreement and headquarters agreement signed between (...) and the Saudi Arabian Government. These agreements grant exemption to the establishment's funds from all types of taxes (direct and indirect), customs duties, and other fees. As such, Zakat payer requests to overturn the appealed primary Decision for the aforementioned reasons.

On Monday, 28/06/1443 AH, corresponding to 31/01/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to

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Zakat payer's appeal, reaffirming its previously stated position before the Primary Department. ZATCA also clarified that it maintains the merits of the primary Decision as ZATCA has estimated and imposed Islamic Zakat on the share of (...) Company, in the establishment (...), based on the financial statements of (...) Company, amounting to (SAR 36,66). ZATCA's action was based on Ministerial Letter No. (2740/4) dated 28/08/1403 AH, which stipulates the obligation of Zakat on companies in which government agencies have shares, and based on Fatwa No. (22665) dated 15/04/1424 AH, and Ministerial Letter No. (12385/1) dated 02/09/1425 AH. Regarding Zakat payer's claim that (...) Company is responsible for submitting declarations and paying dues and that this would lead to a double taxation, ZATCA affirms that Zakat payer is a legal entity that is separate from (...) Company due to the difference in financial liability. ZATCA has already accepted the deduction of investment in (...) Company from Zakat base of (...) Company. This demonstrates the validity of the Primary Department's Decision, subject of appeal. ZATCA requests that the Department does not accept any new Documents that Zakat payer has not previously submitted to ZATCA during the examination and objection phase. Additionally, ZATCA maintains the validity and correctness of its action and requests to dismiss Zakat payer 's appeal and uphold the primary Decision for the aforementioned reasons.

On Sunday, 19/07/1443 AH, corresponding to 20/02/2022 AD, upon reviewing Zakat payer's appeal, the Department requested that ZATCA provide information regarding the date on which (...) Company acquired the Saudi Arabian government's share in (...) Establishment, to be submitted within 15 days from this date.

On Thursday, 20/09/1443 AH, corresponding to 21/04/2022 AD, and by reviewing appeal memoranda and replies thereto, and by Documents of the Case file, the Department decided that the case is ready for adjudication and issuance of Decision on its subject. Accordingly, the Department decided to close the pleading and schedule the case for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat payer's appeal is based on the objection to being considered a person subject to Zakat. This is because the establishment agreement signed between it and the Saudi Arabian Government includes exemption from all direct and indirect taxes and other fees. Meanwhile, ZATCA requested to dismiss Zakat payer's appeal and uphold the primary Decision. Having carefully considered the subject matter of the dispute and examined the Documents of the case file, and with regard to Zakat payer's appeal against Zakat assessment for the disputed year, this Department concludes that the central focus of the dispute between Zakat payer and ZATCA lies in whether Zakat payer should be considered a resident in KSA for the purposes of calculating Zakat on the Saudi partner's share. The Department has reviewed Zakat payer's establishment agreement, which stated in Article (4) that Zakat payer's headquarters is in Riyadh. Additionally, Article (16) of the same agreement, pertaining to privileges and immunities, stated that Zakat payer enjoys a number of privileges, including exemption of Zakat payer's funds, shares, and properties from all types of taxes (direct or indirect). Moreover, the same agreement stipulated all provisions of (...) University's privileges and immunities agreement shall be applied on Zakat payer and the preamble of the agreement establishing (...) Institution (Zakat payer) stipulated approval of the Arab member states of the agreement and its

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amendments. Upon reviewing several double taxation avoidance agreements concluded between the Saudi Arabian Government and other countries, the Department has found that these agreements mention Zakat as part of the taxes imposed in KSA and refer to it in the same context as income tax. This indicates the legislator's intention to consider Zakat as a direct tax in relation to the exemptions granted to international entities, unless otherwise specified. Furthermore, considering that the establishment agreement of the institution (...) is a diplomatic agreement, and KSA was a sovereign member and signatory thereto, committed to its provisions, and since KSA hosts this headquarters, it is evident that the establishment agreement encompasses all provisions related to the institution's relationship with the host state (KSA). Given that this agreement was approved by KSA after fulfilling all legal procedures, the waiver of the Saudi Arabian Government 's share to (...) Company does not affect the validity and correctness of the provisions contained therein, which gave rise to rights for Zakat payer. This is because the Government's waiver of this share did not include any amendments to the rights acquired by Zakat payer pursuant to that agreement. Since this Department has found no justification for denying Zakat payer of the rights granted by that agreement, and ZATCA has not provided any justification to deviate from that, and considering the legislator's approach in referring to Zakat in the context of direct taxes in tax treaties concluded with other countries, it is therefore determined that Zakat payer is not subject to Zakat or tax. Accordingly, this Department decides to accept Zakat payer's appeal and overturn the primary Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal filed by Zakat payer (...), TIN (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2021-448) issued in Case No. (Z-20363-2020) on 2017 tax assessment.

Second: On Merits: Accept Zakat payer's appeal and overturn the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the Grounds and merits mentioned therein.

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Keywords
Zakat - Estimated - Diplomatic Organization - Estimated Assessment According to Financial Statements

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (ISR-2021-449), regarding zakat assessment for 2018. Zakat Payer's appeal centers on its objection to being considered a person subject to Zakat, given that the establishment agreement signed between it and the Saudi Arabian Government includes exemption from all direct and indirect taxes and other fees. Furthermore, the Department has established that the Saudi Arabian Government's waiver of its share did not involve any amendments to the rights acquired by Zakat payer pursuant to that agreement. Department also has found no justification for denying Zakat payer of the rights granted by that agreement, and ZATCA has not provided any justification to deviate from that. Therefore, the Department accepts Zakat Payer's appeal.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on .../../... AH, corresponding to ../../.. AD, by the Institution (....), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2021-449) issued in Case No. (Z-20368-2020), in connection with Zakat assessment for 2018, filed by the Appellant against ZATCA, in which the Primary Department ruled as follows:
Accept the Case filed by the Plaintiff (....), against Defendant/ZATCA in form, and reject the same on merits based on the abovementioned Grounds.
Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:
Zakat payer is objecting to the appeal primary Decision. Zakat payer is claiming that it is not a company registered in Saudi Arabia but rather a diplomatic organization affiliated with (... University), as stated in the establishment agreement and headquarters agreement signed between (...) and the Saudi Arabian Government. These agreements grant exemption to the establishment's funds from all types of taxes (direct and indirect), customs duties, and other fees. As such, Zakat payer requests to overturn the appealed primary Decision for the aforementioned reasons.
On Monday, 28/06/1443 AH, corresponding to 31/01/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary

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Department. ZATCA also clarified that it maintains the merits of the primary Decision as ZATCA has estimated and imposed Islamic Zakat on the share of (...) Company, in the establishment (...), based on the financial statements of (...) Company, amounting to (SAR 36,66). ZATCA's action was based on Ministerial Letter No. (2740/4) dated 28/08/1403 AH, which stipulates the obligation of Zakat on companies in which government agencies have shares, and based on Fatwa No. (22665) dated 15/04/1424 AH, and Ministerial Letter No. (12385/1) dated 02/09/1425 AH. Regarding Zakat payer's claim that (...) Company is responsible for submitting declarations and paying dues and that this would lead to a double taxation, ZATCA affirms that Zakat payer is a legal entity that is separate from (...) Company due to the difference in financial liability. ZATCA has already accepted the deduction of investment in (...) Company from Zakat base of (...) Company. This demonstrates the validity of the Primary Department's Decision, subject of appeal. ZATCA requests that the Department does not accept any new Documents that Zakat payer has not previously submitted to ZATCA during the examination and objection phase. Additionally, ZATCA maintains the validity and correctness of its action and requests to dismiss Zakat payer 's appeal and uphold the primary Decision for the aforementioned reasons.

On Sunday, 19/07/1443 AH, corresponding to 20/02/2022 AD, upon reviewing Zakat payer's appeal, the Department requested that ZATCA provide information regarding the date on which (...) Company acquired the Saudi Arabian government's share in (...) Establishment, to be submitted within 15 days from this date.

On Thursday, 20/09/1443 AH corresponding to 21/04/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat payer's appeal is based on the objection to being considered a person subject to Zakat. This is because the establishment agreement signed between it and the Saudi Arabian Government includes exemption from all direct and indirect taxes and other fees. Meanwhile, ZATCA requested to dismiss Zakat payer's appeal and uphold the primary Decision. Having carefully considered the subject matter of the dispute and examined the Documents of the case file, and with regard to Zakat payer's appeal against Zakat assessment for the disputed year, this Department concludes that the central focus of the dispute between Zakat payer and ZATCA lies in whether Zakat payer should be considered a resident in KSA for the purposes of calculating Zakat on the Saudi partner's share.

The Department has reviewed Zakat payer's establishment agreement, which stated in Article (4) that Zakat payer's headquarters is in Riyadh. Additionally, Article (16) of the same agreement, pertaining to privileges and immunities, stated that Zakat payer enjoys a number of privileges, including exemption of Zakat payer's funds, shares, and properties from all types of taxes (direct or indirect). Moreover, the same agreement stipulated all provisions of (...) University's privileges and immunities agreement shall be applied on Zakat payer and the preamble of the agreement establishing (...) (Zakat payer) stipulated approval of the Arab member states of the agreement and its amendments. Upon

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reviewing several double taxation avoidance agreements concluded between the Saudi Arabian Government and other countries, the Department has found that these agreements mention Zakat as part of the taxes imposed in KSA and refer to it in the same context as income tax. This indicates the legislator's intention to consider Zakat as a direct tax in relation to the exemptions granted to international entities, unless otherwise specified. Furthermore, considering that the establishment agreement of the institution (...) is a diplomatic agreement, and KSA was a sovereign member and signatory thereto, committed to its provisions, and since KSA hosts this headquarters, it is evident that the establishment agreement encompasses all provisions related to the institution's relationship with the host state (KSA). Given that this agreement was approved by KSA after fulfilling all legal procedures, the waiver of the Saudi Arabian Government 's share to (...) Company does not affect the validity and correctness of the provisions contained therein, which gave rise to rights for Zakat payer. This is because the Government's waiver of this share did not include any amendments to the rights acquired by Zakat payer pursuant to that agreement. Since this Department has found no justification for denying Zakat payer of the rights granted by that agreement, and ZATCA has not provided any justification to deviate from that, and considering the legislator's approach in referring to Zakat in the context of direct taxes in tax treaties concluded with other countries, it is therefore determined that Zakat payer is not subject to Zakat or tax. Accordingly, this Department decides to accept Zakat payer's appeal and overturn the primary Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal filed by Zakat payer (...), TIN (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2021-449) issued in Case No. (Z-20368-2020) in connection with zakat assessment for 2018.

Second: On Merits:

Accept Zakat payer's appeal and overturn the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the Grounds and merits mentioned therein.

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Decision No. IR-2022-169
Case No. Z-26867-2020

Keywords
Zakat - Estimated - Estimated Assessment Other than Realized Revenues - Rejection of Appeal - Uphold Primary Decision

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IFR-2020-43) regarding zakat assessment for 1435 AH. Zakat payer's appeal centers on the argument that the disputed estimated assessment amounts do not fully represent the realized revenues during Zakat year. However, the Department has found that Zakat payer has not provided any evidence to support its claim, nor has it presented evidence that could be relied upon to overturn ZATCA's findings in calculating Zakat based on the profit percentage of the total revenue, as per its assessment which was objected to by Zakat payer. Since the Department did not observe any matters that deserve correction or commentary based on the Documents provided by ZATCA, the Department concludes that the Primary Department's Decision is valid. Therefore, The Department hereby ruled to accept the appeal and uphold the primary Decision.

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal filed on .. /.. /.../ AH, corresponding to ../../... AD, by/ (...), ID No. (...), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-43) issued in Case No. (Z-8716-2019), in connection with Zakat assessment for 1435 AH, filed by the Appellant against ZATCA, in which the Primary Department ruled as follows:
Reject the objection filed by the Plaintiff/ (...), TIN No. (...), against Defendant/ZATCA Decision with relation to Zakat assessment for 1435 AH, subject matter of the Case.
Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:
Zakat payer is objecting to the appealed primary Decision, as it is claiming that the profit margin percentage stated in the Decision lacks a clear and explicit mandatory provision for determining the exact 15% rate. The percentage actually ranges between 10% and 15%, and there are also certain expenses that have not been taken into account. Therefore, Zakat payer objects to the Decision and requests to overturn the appealed Decision for the aforementioned reasons.
On Monday,23/05/1443 AH, corresponding to 27/12/2021 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal. In summary, ZATCA is reiterating its previously stated position

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before the Primary Department. It is also claiming that the issues raised by Zakat payer do not deviate from what was previously presented and responded to by ZATCA. As such, ZATCA is insisting on the primary Decision as it is in accordance with the provisions of paragraph (6/a-b) of Article (13) of the Implementing Regulations for Zakat Collection issued in 1438 AH, and Article (20.3) of the same Regulations. ZATCA requests that the Department does not accept any new requests from Zakat payer citing Article (186) of the Law of Civil Procedure. ZATCA maintains that the validity and correctness of its action and requests to dismiss Zakat payer's appeal and uphold the primary Decision for the aforementioned reasons.

On Monday, 25/08/1443 AH, corresponding to 28/03/2022 AD, upon reviewing Zakat payer's appeal, and given that Zakat payer claims that the amounts on which Zakat was calculated in the enterprise's account do not all represent the enterprise's revenue, this Department has requested that Zakat payer provide a detailed explanation of the nature of those amounts that do not constitute the enterprise's revenue, along with evidence to support Zakay payer's claim. This is to be submitted within 10 days from this date. However, Zakat Payer did not provide the required Documents.

On Wednesday, 12/09/1443 AH corresponding to 06/04/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat payer's appeal is based on the argument that the disputed estimated assessment amounts do not fully represent the realized revenues during Zakat year. However, ZATCA maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons. Having carefully considered the subject matter of the dispute and examined the Documents of the case file, and given that Zakat payer claims that the amounts on which Zakat was calculated in the enterprise's account do not all represent the enterprise's revenue, and whereas this Department requested that Zakat payer provide a detailed explanation of the nature of those amounts that do not constitute the enterprise's revenue, and whereas Zakat payer has failed to provide any evidence to support its claim, nor has it presented evidence that could be relied upon to overturn ZATCA's findings in calculating Zakat based on the profit percentage of the total revenue, as per ZATCA's assessment which was objected to by Zakat payer, and since the Department did not observe any matters that deserve correction or commentary based on the Documents provided by ZATCA, the Department concludes that the Primary Department's Decision is valid. Accordingly, this Department has decided to reject Zakat payer's appeal and uphold the primary Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal filed by Zakat payer (.....), C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes in

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Riyadh Decision No. (IFR-2020-43) issued in Case No. (Z-8716-2019) in connection with zakat assessment for 1435 AH.

Second: On Merits:

Dismiss the appeal filed by Zakat payer and uphold the Decision issued by First Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the Grounds and merits mentioned therein.

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

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Keywords
Zakat - Estimated - Estimated Assessment at Rate Exceeding Realized Revenues - Profit Not Exceeding 2%

Abstract

The Appellant (Zakat payer) is requesting to cancel Primary Department's Decision No. (ISR-2020-233) in connection with Zakat assessment for 1439 AH. Zakat payer's appeal centers on its objection to Primary Department's Decision to uphold ZATCA's action in imposing an estimated assessment on Zakat payer at a rate exceeding the revenues realized during the disputed year. The Department has established, and Zakat payer has proven through the Documents it submitted, that its profit margin does not exceed 2%, and ZATCA has not presented any evidence to contradict Zakat payer's Documents which clearly show Zakat payer's profit from its activities. Since this Department did not find any requirement for correction or further response based ZATCA submissions before this Department. Therefore, the Department accepts Zakat Payer's appeal.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal presented on././. corresponding to../.../.., by/ (...), ID No. (...), in his capacity as Owner of Appellant Enterprise, against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2020-233) issued in Case (Z-3185-2020), in connection with Zakat assessment for 1439AH, filed by Appellant against ZATCA, in which the Primary Department decided as follows: Accept the Case filed by Plaintiff/(....), holding National ID No. (.....), Owner of (... Enterprise), C.R. No. (...), in form, and reject the Case on merits.

Since the aforementioned Decision was not accepted by the Zakat Payer (... Est.), it presented a statement of appeal to the Department, summarized as follows:

Zakat payer is filing this case to object to the appealed primary Decision. Zakat payer is claiming that the initial assessment conducted by ZATCA for the amount of (SAR 97,312) was objected to, and the objection was rejected. Furthermore, the assessed amount was increased to (SAR 148,151. Zakat payer was unaware of the calculation method and basis used for increasing the amount after the objection. Therefore, Zakat payer has filed an appeal before the Department to seek justice from the unfair estimated Zakat assessment, as it is a wholesale enterprise with an actual profit margin that does not exceed (2%) and may sometimes reach (1%) or less. Zakay payer has Documents and invoices to prove this. Therefore, Zakay payer requests to overturn the appealed primary Decision for the aforementioned reasons.

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Since the Department decided to open pleadings, ZATCA submitted a Reply dated 15/11/1442 AH, corresponding to 24/06/2021 AD, answering Zakat payer's appeal by reiterating its previous position submitted before the Primary Department. ZATCA also clarified that its action was taken based on Article (13.5,6,8) of the Implementing Regulations for the Collection of Zakat. As such, ZATCA maintains accuracy and correctness of its action and requests dismissing Zakat payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On Tuesday, 29/06/1443 AH, corresponding to 01/02/2022 AD, the Department decided to hold an electronic pleading session for (10) days, and such period ended without presenting any further statements by both litigants.

On Wednesday, 17/10/1443 AH corresponding to 18/05/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat payer's appeal centers on objecting to the Primary Department's Decision to uphold ZATCA's action to impose an estimated assessment on Zakat payer at a rate exceeding the revenues realized during the disputed year. However, ZATCA maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons. Having carefully considered the subject matter of the dispute and examined the Documents of the case file, Zakat payer has proven through submitted Documents that its profit margin does not exceed 2%, and ZATCA has not presented any evidence to contradict Zakat payer's Documents which clearly show Zakat payer's profit from its activities. Since this Department did not find any requirement for correction or further response based on ZATCA submissions before this Department, as such, this Department has decided to accept Zakat payer's appeal and amend the primary Decision by determining an estimated assessment based on a profit margin that does not exceed 2%.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the Appeal filed by Zakat payer (..... Enterprise), C.R No., TIN (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2020-233) issued in Case No. (Z-3185-2020), in connection with zakat assessment for 1439 AH.

Second: On Merits: Accept Zakat payer's appeal, and amend the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh by determining an estimated assessment based on a profit margin that does not exceed 2%, based on the Grounds and merits mentioned herein.

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

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-164
Case No. Z-31577-2020

Keywords
Zakat - Accounts - Advance Payments - Accrued Expenses - Dividends on which Lunar Year has Passed - Additional Capital

Abstract

The Appellant (Zakat payer) is requesting to overturn Primary Department Decision No. (IZD-2020-223), in connection with Zakat assessment for 2017 concerning the following items. Regarding the item (advance payments), Zakat payer's appeal centers on its objection to subjecting the balance shown in the financial statements to Zakat. Zakat payer claims to have provided ZATCA with Documents detailing the transactions related to that balance. However, the Department found that Zakat payer has not proven that a lunar year has not passed on the disputed amounts. Therefore, the Department finds that the conclusion reached by the Primary Department, issuer of the appealed Decision, is valid. Regarding the item (accrued expenses), Zakat payer's appeal centers on its objection to subjecting the balance to Zakat. Zakat payer claims to have provided ZATCA with Documents detailing the transactions related to that balance. However, the Department found that Zakat payer has not proven that a lunar year has not passed on the disputed amounts. Therefore, the Department finds that the conclusion reached by the Primary Department, issuer of the appealed Decision, is valid. As for the item (dividends on which the lunar year has passed), Zakat payer's appeal centers on its objection to subjecting dividends to Zakat. Zakat payer claims that a lunar year has not passed on these dividends during the disputed year. However, the Department found that Zakat payer has not provided any evidence to show that the funds were taken out of its possession before completion of the lunar year. Therefore, the Department finds that the conclusion reached by the Primary Department, issuer of the appealed Decision, is valid. As for the item (additional capital), Zakat payer's appeal centers on its claim to exclude what has been added to Zakat base from the partners' current account. However, the Department found that Zakat payer has not provided any evidence to support its claim. Therefore, the Department finds that the conclusion reached by the Primary Department, issuer of the appealed Decision, is valid. Therefore, The Department hereby ruled to accept the appeal in form and uphold the primary Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the Appeal filed on 27/04/1442 AH corresponding to 12/12/2020 AD, by (.....), ID No. (.....), in his capacity as the Appellant Company's Attorney by POA No. (...), against First Department for Determination of Income Tax

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Violations and Disputes in Dammam No. (IZD-2020-223) issued in Case No. (Z-6637-2019), in connection with Zakat assessment for 2017, filed by the Appellant against ZATCA, in which the Primary Department decided as follows:

1. Dismiss the objection filed by the Plaintiff (.....Co.), (C.R. No. .....), regarding the item (advance payments).
2. Dismiss the objection filed by the Plaintiff (.....Co.), (C.R. No. .....), regarding the item (accrued expenses).
3. Dismiss the objection filed by the Plaintiff (.....Co.), (C.R. No. .....), regarding the item (Distributed Dividends).
4. Accept the objection filed by the Plaintiff (.....Co.), (C.R. No. .....), regarding the item of (additional capital).

Since this Decision was not accepted by Zakat payer (..... Company), Zakat payer filed a statement of appeal that can be summed up as follows:

Zakat payer is objecting to the Primary Department Decision. With respect to the item (advance payments), Zakat payer argues that, the Primary Department subjected the balance shown in the financial statements to Zakat without considering the Documents submitted to ZATCA that detail the transactions that occurred on that balance. Furthermore, Zakat payer claims that the balance shown at the beginning of the period was completely settled during the fiscal year, and that the balance shown at the end of the period resulted from transactions that occurred during the year. Therefore, there is no balance of customer advance payments to be subjected to Zakat. With respect to the item (accrued expenses), the balance shown in the financial statements has reached the due period for Zakat, and therefore, that balance was subjected to Zakat in accordance with the provisions of Article (4.4) of the Implementing Regulations, without considering the Documents submitted. Moreover, the balance shown at the end of the period resulted from transactions that occurred during the year, and therefore, there is no balance that has completed full lunar year to be due for Zakat. Furthermore, the accrued expenses are in the form of salaries and allowances, which are actual expenses of Zakat payer that were closed at the beginning of the following month after the end of the fiscal year. With respect to the item (dividends on which the lunar year has passed), the accounting closing entry for dividends was made on 30/12/2017. However, the distributions were made before the end of the fiscal year and therefore, the lunar year had not passed for them to be subject to Zakat, as shown in the retained earnings account. With respect to the item (additional capital), Zakat payer requests the implementation of Article (4.2) of the Implementing Regulations, and the exclusion of what was added to Zakat base from the partners' current account. As such, Zakat payer requests to overturn the Decision issued by the Primary Department for the aforementioned reasons.

The Department decided to open pleadings. Therefore, ZATCA submitted a Reply dated 10/07/1442 AH, corresponding to 21/02/2021 AD, in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary Department. Furthermore, regarding the items (advance payments) and (accrued expenses),ZATCA clarified that it added either the beginning-of-period or end-of-period balance, whichever was lower, to ensure compliance with Sharia requirement of a full lunar year. ZATCA based its procedure on Fatwa No. 23408 dated 18/11/1426 AH and Article (4.4) of the Implementing Regulation for Zakat Collection. With respect to the items (dividends distributions) and (additional capital), ZATCA based its procedure on Article (15.1) of the same Implementing Regulations. ZATCA added the dividends to Zakat base as the lunar year had passed, relying on Article (4) paragraphs 8 and 11 of the Implementing Regulations. As such, ZATCA requests to dismiss Zakat payer's appeal and uphold the primary Decision on the items disputed by Zakat payer for the aforementioned reasons.

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On Wednesday, 07/03/1443 AH corresponding to 13/10/2021 AD, the Department decided to hold a 10-day electronic pleading hearing. However, the period elapsed without either party to the appeal submitting any additional arguments.

On Thursday, 24/06/1443 AH, corresponding to 27/01/2022 AH, upon reviewing the Case file regarding Zakat payer's appeal on the item (advance payments), the Department requested Zakat payer to submit extracts from the general ledger showing the beginning-of-period balance, the transactions that occurred on each account constituting the advance payments, and the end-of-period balance, to enable verification of the balance of these accounts for which the lunar year has passed. Regarding Zakat payer's appeal on the item (accrued expenses), the Department requested Zakat payer to submit extracts from the general ledger showing the beginning-of-period balance, the transactions that occurred on each account, and the end-of-period balance, to enable verification of the balance of these accounts for which the lunar year has passed. Regarding Zakat payer's appeal on the item (dividends on which the lunar year has passed), the Department requested Zakat payer to provide evidence that dividends were distributed to the partners before the end of the lunar year. Regarding Zakat payer's appeal on the item (additional capital), the Department requested Zakat payer to provide evidence that the beginning-of-period balance of that account was reduced before the end of the lunar year. This is to be provided within 10 days from this date.

On Sunday, 24/08/1443 AH, corresponding to 27/03/2022 AD، upon reviewing the Case file regarding Zakat payer's appeal on the item (advance payments), the Department requested Zakat payer for the second time to submit extracts from the general ledger showing the beginning-of-period balance, the transactions that occurred on each account constituting the advance payments, and the end-of-period balance, to enable verification of the balance of these accounts for which the lunar year has passed. Regarding Zakat payer's appeal on the item (accrued expenses), the Department requested Zakat payer to submit extracts from the general ledger showing the beginning-of-period balance, the transactions that occurred on each account, and the end-of-period balance, to enable verification of the balance of these accounts for which the lunar year has passed. Regarding Zakat payer's appeal on the item (dividends on which the lunar year has passed), the Department requested Zakat payer to provide evidence that dividends were distributed to the partners before the end of the lunar year. Regarding Zakat payer's appeal on the item (additional capital), the Department requested Zakat payer to provide evidence that the beginning-of-period balance of that account was reduced before the end of the lunar year. This is to be provided within 10 days from this date.

On Thursday, 06/09/1443 AH corresponding to 07/04/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, As for Zakat payer's appeal on item (late payment fine), Zakat payer's appeal centers on objecting to the subjection of the balance appearing in the financial statements to Zakat, claiming to have provided ZATCA with Documents detailing the transactions that occurred on that balance. However, ZATCA has maintained the correctness and

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validity of its procedures and requests to dismiss the Zakat payer's appeal and uphold the primary Decision. Considering that the dispute regarding this item is a matter of documentation, and given that the Department requested Zakat payer to provide extracts from the general ledger showing the beginning-of-period balance, the transactions that occurred on each account constituting the advance payments, and the end-of-period balance to enable verification of the balance of these accounts for which the lunar year has passed, and considering that Zakat payer has not proven that the lunar year had not passed on the disputed amounts, and given that this Department has ascertained the correctness of the conclusion reached by the Primary Department issuer of the appealed Decision, this Department therefore concludes by rejecting Zakat payer's appeal and upholding the primary Decision regarding this item.

As for the Zakat payer's appeal on item (accrued expenses), Zakat payer's appeal centers on its objection to subjecting the balance to Zakat, claiming to have provided ZATCA with Documents detailing the transactions that occurred on that balance. However, ZATCA has maintained the correctness and validity of its procedures and requests to dismiss the Zakat payer's appeal and uphold the primary Decision. Having carefully considered the subject of dispute, given that the dispute regarding this item is a matter of documentation, and since the Department requested Zakat payer to provide extracts from the general ledger showing the beginning-of-period balance, the transactions that occurred on each account, and the end-of-period balance to enable verification of the balance of these accounts for which the lunar year has passed, and considering that Zakat payer has not proven that the lunar year had not passed on the disputed amounts, and given that this Department has ascertained the correctness of the conclusion reached by the Primary Department issuer of the appealed Decision, this Department therefore concludes by rejecting Zakat payer's appeal and upholding the primary Decision regarding this item.

Regarding Zakat payer's appeal concerning the item (dividends on which the lunar year has passed), Zakat payer's appeal centers on its objection to subjecting dividends to Zakat, claiming that the lunar year had not passed on these dividends during the disputed year. However, ZATCA has maintained the correctness and validity of its procedures and requests to dismiss the Zakat payer's appeal and uphold the primary Decision. Upon careful consideration of the dispute, and given that the Department requested Zakat payer to provide evidence that dividends were distributed to the partners before the end of the lunar year, and given that the taxpayer has not provided any evidence to show that the funds left his possession before the end of the lunar year, this Department has ascertained the correctness of the conclusion reached by the Primary Department issuer of the appealed Decision. As such, this Department concludes by rejecting Zakat payer's appeal and upholding the primary Decision regarding this item.

Regarding the item (additional capital), Zakat payer's appeal centers claiming to exclude what was added to Zakat base from the partners' current account. However, ZATCA has maintained the correctness and validity of its procedures and requests to dismiss the Zakat payer's appeal and uphold the primary Decision. Upon careful consideration of the dispute, and given that the Department requested Zakat payer to provide evidence demonstrating that the beginning-of-period balance for that account was reduced before the end of the lunar year, however, Zakat payer failed to provide any evidence to substantiate its claim, this Department has ascertained the correctness of the conclusion reached by the Primary Department issuer of the appealed Decision. As such, this Department concludes by rejecting Zakat payer's appeal and upholding the primary Decision regarding this item.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

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Decision

First: In form, Accept the appeal filed by Zakat payer/ Company (....), C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-223) issued in Case No. (Z-6637-2019) in connection with zakat assessment for 2017.

Second: On Merits:

1. **Dismiss the appeal filed by Zakat payer regarding the item (advance payments) and uphold the Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds and merits mentioned therein.**
2. **Dismiss the appeal filed by Zakat payer regarding the item (accrued expenses) and uphold the Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds and merits mentioned therein.**
3. **Dismiss the appeal filed by Zakat payer regarding the item (dividends on which the lunar year has passed) and uphold the Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds and merits mentioned therein.**
4. **Dismiss the appeal filed by Zakat payer regarding the item (additional capital) and uphold the Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds and merits mentioned therein.**

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

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Keywords
Zakat - Accounts - Accounts Payable - Passage of One Year

Abstract

The Appellant (Zakat Payer) filed this appeal seeking cancellation of Primary Department's Decision No. (IZD-2020-199) in connection with zakat assessment for 2018. Zakat Payer's appeal centers on its objection to the inclusion of the (accounts payable) item in Zakat assessment, subject of the Case, arguing that the required lunar year has not passed for these payables. Upon examination of the dispute and considering that payables, regardless of their type, source, or use, are considered a component of Zakat base provided that a lunar year has passed, and after reviewing the Documents submitted by Zakat payer, namely detailed statements of suppliers (credit balances), it is evident to the Department that a lunar year has passed for an amount of (SAR 102,475.52). This fact is not prejudiced by ZATCA's request to reject any Documents that have not been initially submitted to ZATCA. Therefore, The Department hereby ruled to accept the appeal and amend the primary Decision.

Documents:

- Article (23) of Tax Dispute and Violation Committee Procedures promulgated by Royal Order No. (26040), dated 21/04/1441 AH

Facts

The Department convened to consider the appeal filed on ../../... /... corresponding to ../.. /.... By(...)., National ID No. (...), in his capacity as the Appellant Company's General Manager under its articles of association, against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No (IZD-2020-199) issued in Case No. (Z-3861-2019) in connection with zakat assessment for 2018, in the Case filed by the Appellant against ZATCA, in which the Primary Department ruled as follows:
In from: Accept the Case filed by Plaintiff\ .... Company, C.R. No. (...) in form.
On Merits:

1. Accept the Plaintiff's objection regarding the item (import discrepancy) of (SAR 1,277,772), and cancel the Defendant's Decision regarding this item.
2. Dismiss the Plaintiff's objection regarding the item (accounts payables) of (SAR 3,683,537).

Since this Decision was not accepted by Zakat Payer (.... company), he submitted a statement of appeal, which contained the following:
Zakat payer is objecting to the appealed primary Decision. Regarding the (accounts payables). Zakat payer is requesting to deduct that amount from Zakat base and not include it in the calculation, as the required lunar year has not passed for these balances. Zakat payer is claiming that this is in violation of Article (4.3(a)) of the Implementing

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Regulations for Zakat Collection. As such, Zakat payer requests to overturn the primary Decision based on the aforementioned reasons.

Since the Department decided to open pleadings, ZATCA submitted a Reply dated 05/08/1442 AH corresponding to 18/03/2021 AD responding to Zakat payer's appeal by reaffirming its previous position submitted before Primary Department. ZATCA also stated that Zakat payer's arguments do not present anything new that has not already been addressed and responded to by ZATCA. As such ZATCA requested that the Department does not accept any new Documents that were not submitted during the investigation and objection phase. ZATCA also maintains the accuracy and correctness of its procedure and requests dismissing Zakat payer's appeal and upholding the Primary Department's Decision for the aforementioned reasons.

On Wednesday, ../../.... Corresponding to 13/10/2021 AD, the Department decided to hold a 10-day electronic pleading hearing. However, the period elapsed without either party to the appeal submitting any additional arguments.

On Wednesday, 26/06/1443 AH corresponding to 26/01/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits, Zakat payer's appeal centers on its objection to the inclusion of the (accounts payables) item in Zakat assessment, subject of the Case, arguing that the required lunar year has not passed for these payables, However, ZATCA requested dismissing Zaka payer's appeal and upholding Primary Department's Decision. Upon examination of the dispute and considering that payables, regardless of their type, source, or use, are considered a component of Zakat base provided that a lunar year has passed, and after reviewing the Documents submitted by Zakat payer, namely detailed statements of suppliers (credit balances), it is evident to the Department that a lunar year has passed for an amount of (SAR 102,475.52). This fact is not prejudiced by ZATCA's request to reject any Documents that have not been initially submitted to ZATCA. This is because, under the law, a litigant is not required to present all their Documents to the administrative authority at the initial stage. Moreover, Article (23) of Tax Dispute and Violation Committee Procedures grants the parties to a case the right to provide evidence before the judicial department using any means of proof at any stage of the proceedings. Therefore, this Department decided to amend the primary Decision by determining that the amount for which a lunar year has passed and should be added is (SAR 102,475.52).

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal filed by Zakat payer/ Company (.....), CR No. (.....), TIN (.....), against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (...) Issued in Case No. (...), in connection with zakat assessment for 2018.

Second: On Merits: Accept Zakat payer's appeal, and amend the Decision issued by First Department for Determination of Income Tax Violations and Disputes in Dammam to

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include the amount of (SAR 102,475.52), for which a lunar year has passed in Zakat base, based on the Grounds and merits mentioned herein.

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

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Decision No. IR-2022-180
Case No. Z-31317-2020

Keywords
Zakat - Accounts - No Revenues - Exit from Share in Company - Passage of One Year

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Department Decision No. (ISZR-2020-193), regarding Zakat assessment for 1438 AH. Zakat payer's appeal centers on the objection to the primary Decision upholding of ZATCA's Decision to subject his share in the company to Zakat, despite his exit from the Company before the completion of the lunar year for that share. The Department, upon reviewing the partners' Decision regarding Zakat payer's exit from the Company, has determined that the lunar year has not been completed for Zakat payer's activity in this Company. Therefore, The Department hereby ruled to accept the appeal and overturn the primary Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on…/.../... AH, corresponding to…/.../... AD, by (.....), ID No. (...), In his capacity as the Appellant's Attorney under POA No. (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-193) issued in Case No. (Z-6769-2019), in connection with Zakat assessment for 1438 AH, filed by the Appellant against ZATCA, in which the Primary Department decided as follows:

Accept the Case filed by the Plaintiff /..... holder of National ID No. (...), in form, and reject the Case on merits.

Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:

Zakat payer objects to the appealed Decision issued by the Primary Department, claiming that he has no revenues as the office operations ceased during the year. Zakat payer was a partner in (...) Company and exited from the Company in 1438 AH. Also, licenses no.(...) and no (...) were canceled. Furthermore, he argues that he was not initially required to submit financial statements, as concluded by the Primary Department in its reasoning for rejecting his objection. Additionally, ZATCA did not consider the events that occurred after 1437 AH and the Documents he submitted proving his exit from the Company (...). Therefore, Zakat payer requests to overturn the primary Decision for the aforementioned reasons.

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On Tuesday, 29/06/1443 AH, corresponding to 01/02/2022 AD, the Department decided to hold an electronic pleading for a period of (10) days. ZATCA submitted a Reply, responding to Zakat payer's appeal, stating that it affirms its argument presented before the Primary Department. ZATCA also clarified that its estimated Zakat assessment was based on Article (13.5) of the Implementing Regulations for Zakat Collection issued in 1438 AH, and Paragraphs (6) and (8) of Article (13) of the same regulations. Since Zakat payer did not comply with the provisions of Paragraph (3) of Article (20) of the same regulations, ZATCA proceeded with the assessment in light of that. Furthermore, regarding the cancellation dates of licenses no (...), and no (...), ZATCA clarifies that these cancellations occurred after the disputed year. Similarly, considering the notarized exit Decision, it too was dated after the disputed year. Therefore, ZATCA maintains the validity and correctness of its procedures and requests the dismissal of Zakat payer's appeal and the upholding of the primary Decision for the aforementioned reasons.

On Saturday, 22/09/1443 AH corresponding to 23/04/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Taxpayer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat payer's appeal centers on its objection to the primary Decision upholding ZATCA's Decision to subject its share in Company (...) to Zakat, despite its exit from the Company before the completion of the lunar year for that share. Meanwhile, ZATCA has maintained the validity and correctness of its procedure and requests that Zakat payer's appeal be dismissed and the primary Decision be upheld. Having carefully considered the subject of the dispute and after examining the Documents of the case file, and upon reviewing the partners' Decision dated.../.../AH, which includes Zakat payer's exit from Company (...), it is determined that the lunar year has not completed for Zakat payer's activity in this Company. As such, this Department accepts Zakat payer's appeal and overturns the primary Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form. Accept the Appeal filed by Zakat payer (.....), ID No. (.....), TIN (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-193) issued in Case No. (Z-6769-2019) in connection with zakat assessment for 1438 AH.

Second: On Merits: Accept Zakat payer's appeal and overturn the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the Grounds and merits mentioned therein.

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Keywords
Zakat - Estimated - Assessment Not Reflecting True Nature and Reality of Activity

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Decision No. (IFR-2020-41), regarding Zakat assessment for 1438 AH. Zakat payer's appeal centers on the objection to the estimated Zakat assessment for the disputed year, as it does not reflect the true nature and reality of its activity. After reviewing the case file, the Department found that Zakat payer's appeal was filed without stating the reasons that support its claim for Zakat calculation different from the amount assessed by ZATCA. Therefore, the Department dismisses the appeal and upholds Primary Department's Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal filed on ../../... /... corresponding to ../.. /.... By(...)., National ID No. (...), in his capacity as Owner of the Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-41) issued in Case No. (Z-4506-2019) related to Zakat assessment for 1438 AH filed by Appellant against ZATCA, in which the Primary Department decided as follows:
Dismiss the objection filed by the Plaintiff/ Enterprise(.....), (TIN No. ...), against the Defendant's (ZATCA's) Decision, regarding the estimated Zakat reassessment for 1438 AH.
Since the aforementioned Decision was not accepted by the Zakat Payer (... Est.), it presented a statement of appeal to the Department, summarized as follows:
Zakat payer is objecting to the appealed Decision issued by the Primary Department, claiming that the assessed Zakat amount is excessive and does not accurately reflect the true nature and reality of its activities. It further argues that the impact of the COVID-19 pandemic has not been taken into consideration. Zakat payer requests that the Department appoint an accountant to recalculate Zakat and expresses its willingness to negotiate a settlement with ZATCA. As such, Zakat payer is requesting to overturn the Primary Department Decision for the aforementioned reasons.
On Sunday, 09/01/1443 AH, corresponding to 17/08/2021 AD, the Department decided to hold a10-day e-hearing session. The period elapsed without any additional submissions from either party to the appeal.
On Wednesday, 06/08/1443 AH corresponding to 09/03/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the

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Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat payer's appeal centers on the objection to the estimated Zakat assessment for the disputed year, as it does not reflect the true nature and reality of its activity. Upon reviewing Zakat payer's appeal and after examining the Case file, it is evident that Zakat payer's appeal was filed without clearly stating the reasons supporting its claim for a Zakat calculation different from the amount assessed by ZATCA. Consequently, it is clear that Zakat payer's appeal lacks a valid basis. Zakat payer's claim of having an accounting software and systematic accounts does not affect this Decision. Zakat payer has failed to submit its Zakat declaration based on these systematic accounts. Moreover, Zakat payer's objection to ZATCA's assessment and its appeal on the Primary Department's Decision are not supported by audited financial statements. Therefore, this Department has decided to reject Zakat payer's appeal and uphold the primary Decision regarding Zakat payer's objection.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal filed by the Zakat Payer/ (...) Establishment, CR (.....), TIN (....), in form against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-41) issued in Case No. (Z-4506-2019) in connection with zakat assessment for 1438 AH.

Second: On Merits: Dismiss the appeal filed by Zakat payer and uphold the Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the Grounds and merits mentioned therein.

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

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Keywords
Zakat - Accounts - Import Difference - Salary Difference - Failure to Deduct Land Value

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (ISZR-2020-200), in connection with zakat assessment for 2018. Regarding Zakat payer's appeal concerning the item (land deduction for 2018), Zakat payer's appeal centers on its objection to the Primary Department's Decision to uphold ZATCA's action of including these lands in Zakat base. After examining the Case file, it is evident that since the deduction of the disputed lands from Zakat payer's base is not accepted, the corresponding financing must be excluded in accordance with the principle of budgetary balance. Moreover, ZATCA has not proven that these lands are intended for commerce, and has not excluded the financing corresponding to this deduction. Therefore, The Department hereby ruled to accept the appeal and overturn the primary Decision with respect to the item (land deduction for 2018).

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

The Department convened to consider the Appeal filed on 06/04/1442 AH corresponding to 19/11/2020 AD, by (.....), ID No. (.....), in his capacity as the Appellant Company's Manager under its articles of association, against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISZR-2020-200) issued in Case No. (Z-5089-2020) in connection with zakat assessment for 2018, in the Case filed by the Appellant against ZATCA, in which the Primary Department ruled as follows:
First: Accept objection of Plaintiff/ Company ....., C.R. No. (...), In form.
Second: On Merits:

1. Confirm resolution of dispute regarding Import Difference item.
2. Confirm resolution of dispute regarding Salary Difference item.
3. Dismiss the Case with respect to the deduction of land value item.

Since this Decision was not accepted by Zakat Payer (.... company), he submitted a statement of appeal, which contained the following:
Zakat payer is objecting to the appealed Decision issued by the Primary Department. Regarding the item (land deduction for 2018), Zakat payer claims that the lands are being used for business purposes and are generating income. It has attached the sales contract and a detailed account statement for related parties, which shows that the value of the land has been added to the current account. Therefore, Zakat payer is requesting that the value

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of the land be deducted from Zakat base or that the partners' current account be reduced by the same amount. Based on these reasons, Zakat payer is requesting to overturn the appealed primary Decision.

On Tuesday, 29/06/1443 AH, corresponding to 01/02/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary Department. Regarding the item (land deduction for 2018), ZATCA also stated that Zakat payer submitted a deed of relinquishment for 55 vacant land plots owned by one of the partners (Company Manager) in favor of the Company. However, it is unclear whether the land deeds are in the Company's name or the partner's name. Zakat payer has not provided evidence to link the land to the Company's business of selling clothes and shoes. ZATCA emphasizes that to deduct the value of fixed assets, they must be used in the business, as per paragraph (1) of Article (4.II) of the Implementing Regulations for Zakat Collection. As for the partners' current accounts, they have been included in Zakat base according to paragraph (2) of Article (4.1) of the Implementing Regulations for Zakat Collection. ZATCA also requests that no new Documents submitted during the examination and objection phase be accepted. Furthermore, ZATCA requests the Department not to accept any new requests from Zakat payer based on Article (186) of the Civil Procedure Law. ZATCA maintains the validity and correctness of its procedures and requests that Zakat payer's appeal be rejected and the primary Decision be upheld based on the aforementioned reasons.

On Saturday, 22/09/1443 AH corresponding to 23/04/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Regarding Zakat payer's appeal concerning the item (land deduction for 2018), Zakat payer's appeal centers on its objection to the appealed primary Decision to uphold ZATCA's action of including these lands in Zakat base., Zakat payer claims that these lands should be deducted as they are used for business purposes. However, ZATCA has maintained the correctness and validity of its procedures and requests to dismiss Zakat payer's appeal and uphold the primary Decision. Having carefully considered the subject matter of the dispute and examined the Case file, and given that the non-acceptance of the deduction of the disputed lands from Zakat payer's base necessitates the exclusion of the corresponding financing in accordance with the principle of budgetary balance, and given that ZATCA has not proven that these lands are intended for commerce, and did not exclude the financing corresponding to this deduction, this Department decides to accept Zakat payer's appeal, and rules that Zakat payer is entitled to deduct the lands from its Zakat base, and to overturn the appealed primary Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the Appeal filed by Zakat payer/ Company (....), C.R No. (....), TIN (...), against Second Department for Determination of Income Tax Violations and

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Disputes in Riyadh Decision No. (ISZR-2020-200) issued in Case No. (Z-5089-2020) in connection with zakat assessment for 2018.

Second: On Merits:

Accept Zakat payer's appeal regarding the item (land deduction for 2018), and overturn the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, according to merits and Grounds stated herein.

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Keywords

Zakat - Accounts - Partners' Current Account - Bad Debts - Dividends - Increased Sales Return Difference - Fixed Assets

Abstract

The Appellant (ZATCA/ Zakat payer) is requesting the cancellation of Decision No. (IZJ-2020-124) regarding zakat assessment for 1437 AH. With respect to the item (partners' current accounts), Zakat payer's appeal centers on objecting to the primary Decision to uphold ZATCA's action of including this item in Zakat base. Regarding ZATCA's appeal concerning the item (bad debts for 1437 AH), the appeal centers on objecting to the Primary Department's acceptance of Zakat payer's objection to this item. Similarly, for the items (dividends distributions for 1437 AH)and (fixed assets for 1437 AH), the appeal centers on objecting to the Primary Department's acceptance of Zakat payer's objections. The Department has ascertained that regarding Zakat payer's appeal concerning the item (partners' current accounts), the ending balance is the lower balance; thus, the amount subject to the lunar year is the ending balance of (SAR 56,780,594.37). With respect to the item (bad debts for 1437 AH), this Department finds the Primary Department's Decision to be correct. Regarding ZATCA's appeal concerning the item (dividends distributions for 1437 AH), the distributed dividends should not be added to Zakat base if it is proven that they were distributed and transferred to accounts separate from Zakat payer's account. With respect to the item (increased sales return difference for 1437 AH), ZATCA did not link the existence of sales returns to the corresponding impact on the cost of goods sold. Regarding the item (fixed assets for 1437 AH), ZATCA did not provide an analysis in its appeal of the adjustments it made to the depreciation schedule prepared by Zakat payer, specifying the errors made by Zakat payer and how these errors were corrected, which would allow for a reasoned objection to its actions. The Department hereby ruled to accept Zakat payer's appeal and dismiss ZATCA's appeal.

Documents:

- Articles (17) of Income Tax Law promulgated by Royal Decree No. (M/1) dated 15/01/1425 AH

Facts

The Department convened to consider the Appeal filed on ../../.. AH, corresponding to ../../... AD, by (...), holder of National ID No. (...), in his capacity as the Appellant Company's Representative under its Articles of Association, and the appeal filed on 27/03/1442 AH, corresponding to 12/11/2020 AD against Decision No. (IZJ-2020-124) issued by First Department for Determination of Income Tax Violations and Disputes in Jeddah in case No. (Z-7739-2019) in connection with zakat assessment for 1437 AH, filed by the Appellant against ZATCA, in which the Primary Department ruled as follows:

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First: In from: Accept the Case filed by the Plaintiff (..... Company), C.R. No. (....), In form.

Second: On Merits:

1. Dismiss the objection filed by the Plaintiff (.....Co.), Regarding item (Gifts and Gratuities).
2. Accept the objection filed by the Plaintiff (.....Co.), and cancel Defendant's Decision regarding (Bad Debts) item.
3. Accept the objection filed by the Plaintiff (.....Co.), and cancel Defendant's Decision regarding (Excess Sales Returns) item.
4. Accept the objection filed by the Plaintiff (.....Co.), and Cancel the Defendant's Decision regarding item (Adjusted Net Profit)
5. Accept the objection filed by the Plaintiff (.....Co.), and cancel Defendant's Decision regarding (Dividends) item.
6. Dismiss the objection filed by the Plaintiff (.....Co.), Regarding item (Partners' Current Account).
7. Accept the objection filed by the Plaintiff (.....Co.), and Cancel the Defendant's Decision regarding item (Fixed Assets).
8. Dismiss the objection filed by the Plaintiff (.....Co.), Regarding item (Other Credit Balances).

Dissatisfied with that Decision, both parties filed a statement of appeal summarized as follows:

As for Zakat Payer's appeal against Primary Department's Decision, Zakat Payer's appeal involves: With respect to item (partners' current accounts), Zakat payer is objecting to the inclusion of this item in Zakat base. Zakat payer claims that the Company's objection was to the specific amount added to the base by ZATCA, not to the inclusion of the partners' current accounts account itself. Zakat payer states that the opening balance of the partners' current accounts was (SAR 86,611,870.93) and the closing balance according to the financial statements was (SAR 56,780,594.37). However, ZATCA added an amount of (SAR 67,301,623), whereas the correct procedure would be to add either the opening or closing balance, whichever is lower, which is what the Company did by adding (SAR 56,780,594.37). Therefore, the Zakat payer requests to overturn the primary Decision on this specific item due to the aforementioned reasons. ZATCA also appealed the Decision, submitting a statement of appeal that can be summed up as follows:

Regarding ZATCA's appeal against item (Bad debts for 1437 AH), ZATCA elaborates that the Implementing Regulations for the Collection of Zakat stipulates in Paragraph (3) of Article (5) thereof several conditions for considering bad debts as allowable expenses, including: 1. Zakat Payer shall provide a certificate from its chartered accountant confirming that such debts have been written off from the books based on a Decision by the authorized person. 2- The debts must not be owed by parties related to Zakat payer. However, Zakat payer has not provided supporting Documents to prove that these two conditions have been met. Furthermore, the Primary Department's reliance on a circular that was addressed by the Implementing Regulation for Zakat Collection of 1438 AH regarding the issue of bad debts is misplaced, as there is a statutory provision in the regulation that addresses this matter. Regarding the item (dividends distributions for 1437 AH), ZATCA clarifies that it has not reviewed the supporting Documents, namely the written authorization mentioned in the Primary Department's Decision, pursuant to which the Company's dividends were transferred to some of the partners' children. ZATCA emphasizes that it is not permissible to rely on Documents that it has not reviewed, based on Article (29) of Tax Dispute and Violation Committee Procedures, issued by Royal Order No. (26040) dated 21/04/1441 AH. Regarding the item (increased sales return difference for 1437 AH), ZATCA clarifies that it has reviewed the audited financial

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statements submitted by Zakat payer and found sales returns amounting to (SAR 48,162,868), related to sales returns in Taif and Hail, with the following details: Sales returns from Taif amounting to (SAR 48,122,663) and sales returns from Hail amounting to (SAR 40,205), totaling (SAR 48,162,868). When Zakat payer was asked about the reason for such a high amount of sales returns at the end of the year, it did not provide any supporting Documents. Therefore, ZATCA adjusted this amount by comparing the sales returns for 1437 AH with the ending inventory and adding the difference to the adjustments to net adjusted profit, in accordance with Article (20.3) of the Implementing Regulation for Zakat Collection . With respect to the item (fixed assets for 1437 AH), the Primary Department's conclusion that ZATCA's circulars gave Zakat payer the option to choose the depreciation method they wanted to use is incorrect; because ZATCA's actions are based on Circular No. (9/2574) dated 14/05/1426 AH and Circular No. (9/1724) dated 24/03/1427 AH, and Article (16) of the Tax Law. As such, ZATCA maintains the validity and correctness of its procedures and requests that its procedures be upheld and that the Primary Department's Decision on the items appealed by ZATCA be overturned due to the aforementioned reasons.

On Tuesday, 29/06/1443 AH, corresponding to 01/02/2022 AD, the Department decided to hold a (10) day electronic pleading. Consequently, ZATCA submitted a Reply addressing Zakat payer's appeal. In summary, ZATCA affirmed the correctness of the Primary Department's Decision supporting ZATCA's actions on the items appealed by Zakat payer. With respect to the item (partners' current accounts), ZATCA maintains its adherence to the Primary Department's Decision, as it is consistent with the provisions of the Decision regarding the treatment of Zakat payer's current account in individual establishments and partners in companies issued on 03/07/1412 AH. Therefore, ZATCA maintains the validity and correctness of its procedures and requests that Zakat payer's appeal be dismissed and the Primary Department's Decision on the items appealed by Zakat payer be upheld for the aforementioned reasons. In addition, Zakat Payer submitted an answer summarized in that Zakat Payer requests dismissing ZATCA appeal and upholding Primary Department's Decision regarding the items subject matter of ZATCA appeal.

On Monday, 22/10/1443 AH corresponding to 23/05/2022 AD, the Department, having considered the Parties' submissions, case file and Documents, it established that the case was ready for adjudication and issuance of a Decision.Accordingly, it decided to close the pleadings and set the case for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer and ZATCA, the Department found that the conditions for considering appeal were met in form as stipulated by the relevant laws, regulations and Decisions. Therefore, the two appeals are accepted in form due to the fact of being filed by parties having capacities and within the statutory period.

On Merits: As for Zakat Payer's appeal regarding (Shareholders' Current Account) item, Zakat Payer's appeal involves objection to Primary Department's Decision that upheld ZATCA procedure outlined in adding this item to zakat base, and claims that the objection was filed regarding the amount added to zakat base by ZATCA, rather than adding shareholders' current account to the base. On the other hand, ZATCA insists on accuracy and correctness of its procedure and requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Having carefully considered the subject of the dispute and examined the Documents of the Case file, and noting that the ending balance is the lower balance, it follows that the amount subject to the lunar year is the ending balance of (SAR 56,780,594.37). Furthermore, the Department has not observed anything

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that requires correction or further response based on what ZATCA presented before it, Therefore, this Department decides to accept Zakat payer's appeal and overturn Primary Department's Decision regarding this particular item.

Regarding ZATCA's appeal concerning item (Bad debts for 1437 AH), ZATCA's appeal centers on Primary Department 's acceptance of Zakat payer's objection to this item. ZATCA claims that Zakat payer has failed to provide supporting Documents required by the Implementing Regulations for Zakat Collection to consider bad debts as deductible expenses. However, Zakat payer requests to dismiss ZATCA's appeal and uphold primary Decision. Having carefully considered the subject of the dispute and examined the Documents of the Case file, and given that Zakat payer has provided supporting Documents to write off the disputed debts and has provided evidence of the write-off of the debt amounting to (SAR 5,162.40), and since this Department has ascertained the correctness of the conclusion reached by the Primary Department, and that the reasons upon which it based its Decision are sufficient to support this Decision, this Department decides to reject ZATCA's appeal and uphold the primary Decision regarding this particular item.

Regarding ZATCA's appeal concerning item (Dividends for 1437 AH), ZATCA's appeal centers on Primary Department 's acceptance of Zakat payer's objection to this item. ZATCA claims it did not review the written authorization mentioned in the primary Decision, which was used as a basis for transferring Company's dividends to some of the partners' children. However, Zakat payer requests to dismiss ZATCA's appeal and uphold primary Decision. Having carefully considered the subject of the dispute and examined the Documents of the Case file, and given that distributed dividends are not included in Zakat base if it is proven that they have been distributed and transferred to accounts separate from Zakat payer's account, and since Zakat payer has provided Documents supporting the distribution of these profits, this Department decides to reject ZATCA's appeal and uphold the primary Decision regarding this particular item.

Regarding ZATCA's appeal concerning item (Dividends for 1437 AH), ZATCA's appeal centers on Primary Department 's acceptance of Zakat payer's objection to this item. ZATCA claims that after reviewing the audited financial statements submitted by Zakat payer, it became evident that there were sales returns for which Zakat payer did not provide any documentation explaining the reasons. Therefore, ZATCA adjusted this amount by comparing the sales returns to the ending inventory and added the difference to the adjustments to net income. However, Zakat payer requests to dismiss ZATCA's appeal and uphold primary Decision. Having taken cognizance of subject matter of the dispute and Documents included in Case file, the Department found that ZATCA ground for adding this amount to Zakat Payer's base was the fact that there is an amount of sales returns in the trial balance, and that ZATCA asked Zakat Payer to elaborate reasons for sales returns. Considering that sales returns are a normal part of business operations and are accounted for by reducing sales and adjusting the cost of goods sold by the value of returned goods, and given that ZATCA has not linked the existence of sales returns to the corresponding impact on the cost of goods sold, there is no justification for ZATCA to require Zakat payer to explain the reasons for the sales returns that have been recorded in the accounts, unless there is an issue with the accounting evidence for the corresponding amounts that adjust the overall impact of the returns on Zakat 's profit. Therefore, this Department decides to reject ZATCA's appeal and uphold the primary Decision regarding this particular item.

Regarding ZATCA's appeal concerning item (Fixed Assets for 1437 AH), ZATCA's appeal centers on Primary Department 's acceptance of Zakat payer's objection to this item. ZATCA claims that the assertion that ZATCA's circulars granted Zakat payer the discretion to apply the depreciation method of its choice is incorrect, as ZATCA has,

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through the relevant circulars, mandated the application of the depreciation method specified in Article (17) of the Income Tax Law. However, Zakat payer requests to dismiss ZATCA's appeal and uphold primary Decision. Having carefully considered the subject of the dispute and examined the Documents of the Case file, and upon reviewing ZATCA's appeal, it has become apparent that ZATCA has presented reasons that differ from those it presented to the Primary Department. While ZATCA argued before the Primary Department that it had applied the Implementing Regulation for Zakat Collection, it now argues before this Department that it had applied ZATCA's circulars related to the application of certain procedural provisions and accounting standards contained in the tax law to Zakat payers. Such an argument does not undermine the outcome of the Primary Department's Decision, which was based on the argument presented before it. Furthermore, ZATCA, in its appeal, has not provided an analysis of the modifications it made to the depreciation schedule prepared by Zakat payer, demonstrating the errors made by Zakat payer and how these errors were corrected, which would allow for a reasoned objection to its procedure. Therefore, this Department decides to reject ZATCA's appeal and uphold the primary Decision regarding this particular item.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the Appeal filed by Zakat Payer/(... Company), C.R. No. (...), TIN (...), and the appeal filed by ZATCA against First Department for Determination of Income Tax Violations and Disputes in Jaddah Decision No. (IZJ-2020-124) issued in Case No. (Z-7739-2019) , in connection with zakat assessment for 1437 AH.

Second: On Merits:

1. Accept Zakat payer's appeal regarding item (partners' current account for 1437 AH), and overturn Decision of First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with Grounds and merits mentioned herein.
2. Dismiss ZATCA's appeal regarding item (Bad Debts for 1437 AH), and uphold Decision of First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with Grounds and merits mentioned herein.
3. Dismiss ZATCA's appeal regarding item (Dividend for 1437 AH), and uphold Decision of First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with Grounds and merits mentioned herein.
4. Dismiss ZATCA's appeal regarding item (Increased Sales Return Difference for 1437 AH), and uphold Decision of First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with Grounds and merits mentioned herein.
5. Dismiss the appeal filed by ZATCA regarding the item (fixed assets for 1437 AH) and uphold the Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Jeddah, in accordance with the Grounds and merits mentioned therein.

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Keywords
Zakat - Accounts - Fire at Main Branch - Illness of Communication and Text Message Officer

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IZD-2021-1097), regarding zakat assessment for 1433 AH. Zakat payer's appeal is based on the argument that it did not file its objection with ZATCA within the prescribed period due to a reason it attributes to the timing of the reassessment coinciding with the illness of his communications and text messaging officer. The Department has ascertained that ZATCA's assessment for 1433 AH was after the expiration of the period stipulated by the law for making amendments to Zakat payer's declaration. Therefore, the Department accepts Zakat Payer's appeal.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on .. /.. /... AH, corresponding to ... /.. /.... By(...)., National ID No. (...), against First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2021-1097) issued in Case No. (Z-45860-2021), in connection with Zakat assessment for 1433 AH, filed by the Appellant against ZATCA, in which the Primary Department decided as follows:
Dismiss Case filed by the Plaintiff /(...), ID No. (...), against Defendant (ZATCA) in form.
Dissatisfied with the Decision, Zakat payer (.....) filed a statement of appeal including the following:
Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming failure to file an objection within the statutory period due to a reason beyond its control, which is a fire at the Head Office on 10/10/1432 AH, including Accounting Department at that time. In addition, Zakat Payer claims failure to file an objection to reassessment within the statutory period due to illness of liaison officer who is responsible for SMS when the assessment was received. Thereupon, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal and hear the Case on merits for the aforementioned reasons.
On Monday, 04/08/1443 AH corresponding to 07/03/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal, reaffirming its previously stated position before the Primary Department. ZATCA also argued that Zakat payer did not object to ZATCA's Decision within the prescribed period, rendering ZATCA's Decision final and immune from appeal,

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citing Article (22.1) of Implementing Regulations for Zakat Collection issued in 1438 AH and Article (2) of Tax Dispute and Violation Committee Procedures Additionally, Zakat payer did not file an objection with the Primary Department within the prescribed period, rendering ZATCA's Decision final and immune from appeal based on Article (3.2) of Tax Dispute and Violation Committee Procedures. As such, ZATCA requests that the Department does not accept any new requests from Zakat payer, citing Article (186) of the Law of Civil Procedure. ZATCA, accordingly, maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons.

On Wednesday, 20/08/1443 AH corresponding to 23/03/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Zakat Payer's appeal involves claim that Zakat Payer did not file an objection before ZATCA within the statutory period for a reason attributed to coincidence of reassessment with illness of liaison officer who is responsible for SMS. On the other hand, ZATCA requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Upon careful consideration of the subject matter of dispute the Department has established that ZATCA's assessment for 1433 AH was made after the expiration of the prescribed period for amending Zakat payer's declaration, which is stipulated to be five years from the final deadline for Zakat payer to submit their zakat declaration for each year, and considering that these rules were established to ensure the stability of transactions and to prevent Zakat payers from experiencing uncertainty without a defined period within which they can be assured that their financial position will not be disrupted, which has been proven in Zakat payer's objection against ZATCA, and since this matter does not result in Zakat payer being absolved of their legal obligation if, in fact, they are liable for such obligation, but rather its effect is a procedural matter related to ZATCA's right to reinitiate the assessment after the expiration of the prescribed period, this Department concludes that ZATCA's action in making such amendments is invalid. Accordingly, this Department decides to accept Zakat payer's appeal and overturn the primary Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal filed by Zakat payer (.....), C.R. No. (...), TIN (...), against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (Z-45860-2021) issued in Case No. (IZD-2021-1097) in connection with zakat assessment for 1433 AH.

Second: On Merits: Accept Zakat Payer's appeal and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam according to reasons and Grounds stated herein.

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Keywords
Zakat - Accounts - Accuracy of Registered Address Data

Abstract

The Appellant (ZATCA) is requesting the cancellation of Decision No. (IZJ-2020-88) in connection with zakat assessment for the period from 1432 to 1439 AH. After reviewing the Case file, and considering that ZATCA's appeal is based on Zakat payer's acknowledgment of the accuracy of the registered address data and its assumption of all legal consequences and the notification was issued accordingly, Therefore, the Department decided to reject the Appeal and uphold the Primary Department Decision. Having carefully considered the subject matter of the dispute and examined the Case file, the Department finds that the appealed primary Decision is valid, and that the reasons given in support of such Decision are sufficient to uphold it. Therefore, the Department dismisses the appeal and upholds Primary Department's Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on .. /.. /... corresponding to ../.. /... AD, by ZATCA against First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-88) issued in Case No. (Z-8314-2019) in connection with Zakat assessment for period (1432-1439 AH), in the case filed by the Zakat payer against ZATCA, in which the Primary Department decided as follows:
First: In form:
Accept the Case filed by Plaintiff (.... Institution), C.R No.: (....) in form.
Second: On Merits:
Accept the Plaintiff's (... Enterprise) objection, and cancel the Defendant's Decision to impose an estimated Zakat assessment for the period from 1432 AH to 1439 AH.
Dissatisfied with this Decision, Appellant (ZATCA) submitted a statement of appeal summarized as follows:
ZATCA is objecting to the appealed primary Decision, claiming that Zakat payer had updated its registered address with ZATCA and had acknowledged the accuracy of the data as per the attached notification. Zakat payer did not change its name or correct the error, and it had not previously objected to ZATCA on this matter. Furthermore, ZATCA's Representative, due to the circumstances of the period, which included a suspension of in-person attendance at workplaces and difficulties in obtaining all correspondence from the Plaintiff regarding data updates and other matters, was unable to deny the information.

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Additionally, assuming the aforementioned is incorrect is not plausible given the electronic linkage between ZATCA and the Ministry of Commerce regarding commercial records and their matching with ID numbers of Zakat payers. Therefore, the Decision to cancel ZATCA's action should not have been issued if the Zakat payer was not involved. Zakat payer should update its data with ZATCA. Accordingly, ZATCA requests to overturn the appealed primary Decision based on the aforementioned reasons.

The Department decided to open pleadings. Therefore, Zakat payer submitted a Reply dated 08/03/1442 AH, corresponding to 24/10/2020 AD, responding to ZATCA's appeal. Zakat payer stated that ZATCA's claim that the possibility of error in the data is unlikely due to the linkage with the Ministry of Commerce's website is incorrect. Zakat payer argued that human error is possible in any action and that humans are not infallible. Zakat payer further highlighted that ZATCA's error in confusing its account with that of Mr. Osama Al-Mutairi is clear and evident in multiple aspects, including sending notifications to multiple addresses and in the name of another person who has no relation to Zakat payer. Therefore, Zakat payer requests to dismiss ZATCA's appeal, and uphold the primary Decision based on the aforementioned reasons.

On Monday, 23/05/1443 AH, corresponding to 27/12/2021 AD, the Department decided to hold an electronic a period session for (10) days, and such period ended without presenting any further statements by both litigants.

On Sunday 27/06/1443 AH corresponding to 30/01/2022 AD, upon reviewing appeal notes and replies thereto, examining all papers and Documents contained in Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision on its merits. Accordingly, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by ZATCA, the Department found that the formal requirements for appeal hearing have been met as stipulated by the relevant laws, regulations and Decisions. Therefore, the appeal is accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits, after reviewing the Case file, and considering that ZATCA's appeal is based on Zakat payer's acknowledgment of the accuracy of the registered address data and its assumption of all legal consequences and the notification was issued accordingly. However, Zakat payer requests to dismiss ZATCA's appeal and uphold the primary Decision. After considering the subject matter of the dispute and upon examining the Case file, this Department has found that the Primary Department's conclusion is valid and that the reasons on which it based its Decision are sufficient to support it. Furthermore, this Department has not observed anything that warrants a correction or comment in light of what ZATCA has presented. Therefore, this Department concludes by rejecting ZATCA's appeal and upholding the primary Decision in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal filed by/ ZATCA against First Department for Determination of Income Tax Violations and Disputes in Jaddah Decision No. (IZJ-2020-88) issued in Case No (Z-8314-2019) in connection with Zakat assessment for the period (1432-1439 AH).

Second: On Merits:

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Reject ZATCA's appeal and uphold the Decision of First Department for Determination of Income Tax Violations and Disputes in Jaddah, according to merits and Grounds mentioned herein.

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Keywords
Zakat - Accounts - Short-term loans - Long-term loans

Abstract

The appellant (Zakat payer) is requesting the cancellation of Primary Decision No. (IZJ-2020-145) regarding Zakat assessment for 2017. Zakat payer's appeal is based on its demand to treat short-term loans in the same manner as long-term loans. Upon careful consideration of the dispute, the Department notes that Zakat treatment of loans involves adding what has completed a lunar year to Zakat base or what has financed fixed assets. Since the disagreement lies in considering renewable short-term loans as long-term loans, and after analyzing the loans, it is clear that each loan was requested through a separate financing letter, and there is a guarantor for each loan. This indicates that each loan contract was independent of the others, and therefore, they are short-term loans that have not completed a lunar year. Accordingly, the appeal is accepted, and the primary Decision is overturned.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

The Department convened to consider the appeal presented on././. corresponding to ../.../.... by ..., ID No. (...) in his capacity as the Appellant Company's Attorney under POA No. (...), against First Department for Determination of Income Tax Violations and Disputes in Jeddah No. (IZJ-2020-145), issued in Case No. (Z-6956-2019), in connection with zakat assessment for 2017, in Case filed by Appellant against ZATCA, in which the Primary Department's Decision ruled as follows:

First: In form:

Accept the Case filed by the Plaintiff/ Company (....), C.R. No. (...) in form for being submitted within the prescribed period.

Second: On Merits:

1. Dismiss the objection filed by the Plaintiff (.....Co.) to the inclusion of loans item in the Company's Zakat base for 2017.
2. Confirm resolution of the dispute between the Plaintiff and the Defendant regarding the import price difference profit item, with the Defendant accepting the Plaintiff Company's (...) argument. regarding this item.
3. Confirm resolution of the dispute between the Plaintiff and the Defendant regarding the current account balance of the debtor partner item, with the Defendant accepting the Plaintiff Company's (...) argument. regarding this item.

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Since this Decision was not accepted by Zakat Payer (.... company), he submitted a statement of appeal, which contained the following:

Zakat payer is objecting to the appealed Decision of the Primary Department, claiming that regarding the (loans) item, the Decision is incorrect. Zakat payer argues that the loan, in essence, is a short-term loan, as it is obtained and repaid within a short period not exceeding three months. Zakat payer requests that the loan be deducted from Zakat base as a short-term loan and therefore requests to overturn the appealed Decision for the aforementioned reasons.

On Wednesday, 05/12/1442 AH, corresponding to 14/07/2021 AD, the Department decided to hold an online pleading session for (10) days. ZATCA submitted a Reply responding to Zakat payer's appeal by affirming the correctness of the primary Decision. It argued that the Decision was in accordance with Fatwa No. (22665) issued in 1424 AH and Article (4.5) of the Implementing Regulations for Zakat Collection issued in 1438 AH. ZATCA reiterated its argument presented before the Primary Department and stated that Zakat payer's new arguments were previously raised and addressed. ZATCA requested the Department to reject any new requests from Zakat payer, citing Article (186) of the Civil Procedure Law. Therefore, ZATCA maintains the validity and correctness of its action and requested to dismiss Zakat payer's appeal and to uphold the Primary Department's Decision for the aforementioned reasons.

On Sunday, 20/06/1443 AH corresponding to 23/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, after reviewing the Case file, Zakat payer's appeal centers on its claim that its short-term loans should be treated in the same manner as long-term loans. Meanwhile, ZATCA maintained the correctness and validity of its action, and requested that Zakat payer's appeal be dismissed and the primary Decision be upheld. Having carefully considered the subject matter of the dispute, and given that Zakat treatment of loans involves adding the amount due at the end of the lunar year to Zakat base or what has financed fixed assets from the base, and since the dispute has narrowed down to whether the short-term renewable loans should be considered long-term loans, and given that an analysis of the loans has revealed that each loan was requested through a separate financing letter, and there is a guarantor for each loan, it is evident that each loan contract was independent of the others, and therefore they are short-term loans on which the lunar year has not passed, it is therefore decided that Zakat payer is entitled to deduct these loans from Zakat base. As such, this Department accepts Zakat payer's appeal and overturns the primary Decision in this regard.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal filed by Zakat payer/ Company(....), CR. NO. (…), TIN No (…), against First Department for Determination of Income Tax Violations and

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Disputes in Jeddah Decision No (IZJ-2020-145) issued in Case No. (Z-6956-2019) in connection with zakat assessment for 2017.

Second: On Merits:

Accept Zakat Payer's appeal and overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah according to reasons and Grounds stated herein.

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Keywords
Zakat - Accounts - Financial Statements - Non-Deduction of Expenses - Credit Balances

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Decision No.(IFR-2020-270), regarding Zakat assessment for the period from 2011 to 2017. After reviewing the Case file, and considering the specific point of Zakat assessment for 2013 and 2014, Zakat payer's appeal centers on the objection to the disregard of the audited financial statements and the assessment based on an estimated method. Upon careful consideration of the dispute, and given that the principle is to calculate Zakat based on Zakat payer's declaration prepared based on the audited financial statements with the provision of supporting Documents when requested by ZATCA, and after reviewing the submissions of Zakat payer, it appears that he has submitted audited financial statements for 2013 and 2014, certified by an accredited chartered accountant. Since ZATCA has not presented any evidence to challenge these audited financial statements or justify not considering their content, Therefore, The Department hereby ruled to accept the appeal and overturn the primary Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on .. /.. /... , corresponding to .../.../... , by (....), ID No(...), in his the Appellant Company's Representative, under Company's Articles of Association, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-270) issued in Case No. (Z-6729-2019) in connection with Zakat assessment for the period from 2009 to 2017, filed by the Appellant against ZATCA, in which the Primary Department decided as follows:
First: Cancel the Decision issued by the Defendant/ ZATCA against the Plaintiff/ Company ... (TIN ...), regarding Zakat assessment, subject matter of the Case for 2011 to 2012.
Second: Dismiss all other objections filed by the Plaintiff/Company (…)((TIN …) regarding the Decisions of the Defendant/ZATCA, subject matter of the Case.
Since this Decision was not accepted by Zakat payer (..... Company), Zakat payer filed a statement of appeal that can be summed up as follows:
Zakat payer is objecting to the appealed Decision issued by the Primary Department. Regarding Zakat assessment for 2013 and 2014, Zakat payer demands that Zakat be calculated based on the audited financial statements and Documents. All data was

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submitted to ZATCA on time and within the permitted response period. The audited financial statements were also submitted with a review note numbered (1293) dated 20/01/2020, but ZATCA neglected them and made an estimated Zakat assessment without relying on the audited financial statements. The Primary Department also ignored what was submitted. Furthermore, ZATCA erred in the estimated calculation procedure as stipulated in Article (13.8) of the Implementing Regulations for Zakat Collection. The capital was calculated as (SAR 4,500,000), whereas the capital since the Company's establishment has been (SAR 217,000), as stated in the financial statements. Also, the profit was calculated at a rate of (15%) for each year based on Article (9.13), and the percentage mentioned in the article is only used in the absence of information. Additionally, other expenses were not deducted. Regarding 2015 and 2016, Primary Department did not consider the objection regarding the item (Addition of Al Rajhi Bank Shareholder Loans) for those years. Zakat payer is also requesting a deduction of gratuity expenses amounting to (SAR 44,871) for 2015 and (SAR 23,052) for 2016 from Zakat base. Gratuities are considered part of employee salaries and wages as they are compensation for additional work. Zakat payer is also requesting a deduction of traffic fines and expenses amounting to (SAR 14,200) for 2015 and (SAR 6,600) for 2016 from Zakat base, as these are sovereign fees paid to the government in accordance with traffic laws and are therefore recorded as expenses by the Company. Furthermore, Zakat payer is requesting a deduction of Zakat and charity donations amounting to (SAR 210,445) for 2015 and (SAR 60,344) for 2016 from Zakat base. These donations represent annual cost of Iftar meals for several mosques during Ramadan, as well as water, juice, milk, and meals from restaurants for mosques, and also donations to the poor and charitable societies. Zakat payer is also requesting a deduction of advertising and gifts expenses amounting to (SAR 17,569) for 2015 and (SAR 8,858) for 2016 from Zakat base. As such, Zakat payer requests to overturn the primary Decision based on the aforementioned reasons.

Since the Department decided to open pleadings, ZATCA submitted a Reply dated 17/05/1442 AH, Corresponding to 18/02/2021 AD, responding to Zakat payer's. ZATCA argues that Zakat payers who are required to keep accounts must comply with the provisions of Article (20.2) of the Implementing Regulations for Zakat Collection . In the event of non-compliance, ZATCA has the right to make an estimated assessment based on Article (13.5) and Article (20.3) of the same regulations. ZATCA refers to the argument expressed in the Decision of the Primary Department and its justifications. Therefore, ZATCA maintains the validity and correctness of its procedures and requests that Zakat payer's appeal be dismissed and the primary Decision be upheld for the aforementioned reasons.

On Wednesday, 07/03/1443 AH, corresponding to13/10/2021 AD, the Department decided to hold an electronic pleading session for a period of ten (10) days, During this pleading, Zakat payer submitted some Documents that had the same content as the ones previously submitted.

On Sunday, 06/06/1443 AH corresponding to 09/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions.

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This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, after reviewing the Case file, and considering the specific point of Zakat assessment for 2013 and 2014, Zakat payer's appeal centers on the objection to the disregard of the audited financial statements and the assessment based on an estimated method. Meanwhile ZATCA maintained that its procedures are valid and correct and has requested the dismissal of Zakat payer's appeal and the upholding of the primary. Having carefully considered the subject of the dispute, and given that the principle is to calculate Zakat based on Zakat payer's declaration prepared based on the audited financial statements with the provision of supporting Documents when requested by ZATCA, and given that according to the Facts of the primary Decision, ZATCA relied on Zakat payer's failure to submit financial statements in disregarding Zakat payer's accounts for the disputed years, and upon reviewing what Zakat payer has presented, it appears that it has submitted audited financial statements for 2013 and 2014, certified by an accredited chartered accountant, and since ZATCA has not presented any evidence to challenge these audited financial statements or justify not considering what is stated therein, this Department concludes that Zakat payer is entitled to be assessed based on the financial statements, and therefore accepts Zakat payer's appeal and overturns the primary Decision.

Regarding Zakat assessment for the period from 2015 to 2017, Zakat payer's appeal is based on the objection to the non-deduction of expenses necessary for the activity that generated the income subject to Zakat, and the addition of creditor balances that have not yet completed their lunar year. Meanwhile, ZATCA has maintained that its procedures are valid and correct and has requested the dismissal of Zakat payer's appeal and the upholding of the primary Decision. It is evident from the Facts of the Primary Department's Decision that Zakat payer is objecting to ZATCA's addition of expenses related to the profit-generating activity and the addition of creditor balances that have not yet completed their lunar year. It is also evident from the Facts of that Decision that ZATCA did not provide reasons for its adjustments. It is clear from the reasons for the primary Decision that the Primary Department based its Decision in support of ZATCA's action on Zakat payer's failure to provide evidence to support its objection. There were no clear reasons for ZATCA's action that could be used to submit a reasoned objection with supporting Documents, The principle is to accept Zakat payer's declaration unless there is evidence to the contrary. ZATCA has not presented to this Department any evidence to support its assessment of the Zakat payer. As such, this Department concludes that Zakat payer is entitled to have its Zakat base calculated based on what is stated in its declaration, and therefore accepts Zakat payer's appeal and overturns the primary Decision regarding this matter.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In from, Accept the appeal filed by Zakat payer/ Company (…). CR. NO. (…). TIN No. (…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-270) issued in Case No. (Z-6729-2019) in connection with Zakat assessment for the period (2011-2017).

Second: On Merits:

1. Accept Zakat payer's appeal regarding the item (Zakat assessment for 2013 and 2014), and overturn the Decision issued by First Department for Determination of Income Tax Violations and Disputes in Riyadh, according to the merits and Grounds stated herein.

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2. Accept Zakat payer's appeal regarding the item (Zakat assessment for the period from 2015 to 2017), and overturn the Decision issued by First Department for Determination of Income Tax Violations and Disputes in Riyadh, according to the merits and Grounds stated herein.

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

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Keywords
Zakat - Estimated - Disregard of Systematic Accounts - Assessment According to Financial Statements - Rejection of Appeal

Abstract

The Appellant (Zakat payer) requests overturning of Primary Department Decision No. (ISZR-2020-66), regarding Zakat assessment for the period from 1437 AH to1439 AH. Zakat payer's appeal centers on its objection to Primary Department's upholding of ZATCA's action, which disregarded Zakat payer's systematic accounts and reassessed them based on an estimated method. Zakat payer's request revealed that it had calculated Zakat based on its financial statements. However, ZATCA presented evidence that its assessment was based on Zakat payer's audited financial statements. Zakat payer failed to provide any justification to the Department for disregarding ZATCA's assessment. Therefore, the Department decided to reject the Appeal and uphold the Primary Department Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the Appeal filed on .../..../.... AH, corresponding to ..../...../..... AD, by/ …, ID. No. (…), in his capacity as the Owner of Appellant Enterprise, against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-66) issued in Case No. (Z-10248-2019), in connection with Zakat assessment for the period from 1437 AH to 1439 AH, filed by the Appellant against ZATCA, in which the primary Decision ruled as follows:
Accept the case filed by the Plaintiff/ ..... ,ID No. (.....), Owner of (.... Enterprise), C.R No. (...), against the Defendant/ ZATCA in form and reject the same on merits.
- Since this Decision was not accepted by Zakat payer (..... Enterprise), Zakat payer submitted a statement of appeal that can be summed up as follows:
Zakat payer is objecting to the Decision issued by the Primary Department, claiming that the estimated Zakat assessment is what led to Zakat discrepancies. This is because the Enterprise maintains systematic accounts based on Gregorian calendar and issues annual audited financial statements in Gregorian calendar, which are certified by a licensed external auditor in KSA and submitted to the Ministry of Commerce's financial statements system. It is essential that Zakat assessment be conducted based on these audited systematic financial statements, taking into account the amounts paid to ZATCA under Zakat account for the disputed years under dispute. Zakat payer is requesting that the

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accounting method be changed from the estimated method to the systematic method according to its systematic accounts, and that Zakat assessment date be changed from Hijri calendar to Gregorian calendar. Additionally, it is requesting that Zakat amounts for the disputed years be recalculated based on audited systematic financial statements. As such, Zakat payer requests overturning of the primary Decision due to the aforementioned reasons.

The Department decided to open pleadings. Therefore, ZATCA submitted a Reply on 28/12/1441 AH, corresponding to 17/08/2020 AD, in response to Zakat payer's appeal. In summary the Reply included as follows: ZATCA reaffirms its position previously presented before the Primary Department. Additionally, the primary Decision aligns with the provisions of the Law. Therefore, ZATCA adheres to the justifications contained in the Decision. Consequently, ZATCA maintains the correctness and validity of its procedures, and it requests dismissal Zakat payer's appeal and upholding of the primary Decision for the aforementioned reasons.

On Monday,23/05/1443 AH, corresponding to 27/12/2021 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal. In summary, ZATCA is reiterating its previously stated position before the Primary Department. It is also claiming that the issues raised by Zakat payer do not deviate from what was previously presented and responded to by ZATCA. As such, ZATCA is insisting on the primary Decision, in accordance with the merits and Grounds it contained. ZATCA requests that the Department does not accept any new requests from Zakat payer ZATCA maintains the validity and correctness of its action and requests to dismiss Zakat payer's appeal and uphold the primary Decision for the aforementioned reasons.

On Wednesday, 06/08/1443 H, corresponding to 09/03/2022 AD, the Department found that ZATCA's assessment was based on the audited financial statements, and given that Zakat payer requested the calculation of Zakat based on the financial statements, this Department requests that Zakat payer clarify the basis of its objection to ZACAT's assessment and the basis of its appeal against the primary Decision, given that ZATCA has assessed Zakat payer in accordance with the financial statements as requested in its objection and appeal, within (7) days from this date. However, Zakat Payer did not provide the required Documents.

On Monday, 25/08/1443 AH, corresponding to 28/03/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat payer's appeal centers on objecting to the Primary Department's Decision to uphold ZATCA's action of discarding its systematic accounts and reassessing them based on an estimated method. However, ZATCA maintains the accuracy and correctness of its procedure and requests to dismiss Zakat payer's appeal and uphold primary Decision for the aforementioned reasons. Having considered the subject of the dispute and examined the Documents of the Case file, and given that Zakat payer requested the calculation of Zakat based on the financial statements, and ZATCA has provided evidence that its assessment was based on Zakat payer's audited financial

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statements, and given that Zakat payer has not provided any justification for not accepting ZATCA's assessment before this Department, As such, this Department decides to reject Zakat payer's appeal and uphold the primary Decision.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal filed by Zakat payer/ Enterprise....., CR. NO. (…), TIN No (…), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISZR-2020-66) issued regarding Case No. (Z-10248-2019) in connection with zakat assessment for the period from 1437 AH to 1439 AH.

Second: On Merits:

Dismiss the appeal filed by Zakat payer and uphold the Decision taken by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the Grounds mentioned therein.

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

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Keywords
Zakat - Accounts - Importers - Deduction of Investments from Zakat Base

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Department Decision No. (ISR-2020-72) regarding Zakat assessment for the period from 2013 to 2017, specifically concerning the item (importers), and the item (deduction of investments from Zakat base). Zakat payer's appeal centers on its objection to the adjustment resulting from the comparison of its Zakat declaration with the customs extract, arguing that the latter contains costs that should be excluded, and that the investments are intended for long-term use and should be deducted from Zakat base. However, after reviewing the audited financial statements for the period from 2013 to 2017, and given that the dispute is primarily based on Documents, and since Zakat payer has not provided sufficient evidence to support its claim, Therefore, the Department dismisses the appeal and upholds Primary Department's Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on ../../... /... corresponding to ../.. /... AD, by/./..... ID No. (...), in his capacity as the Appellant Company' Attorney, under POA No.(...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2020-72) issued in Case No. (Z-8186-2019) in connection with Zakat assessment for the period from 2013 to 2017, filed by the Appellant against ZATCA, in which the Primary Department decided as follows:
Accept the Case filed by the Plaintiff/ Company ....., C.R. No. (...), in form, and dismiss it on merits.
Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:
Zakat payer is objecting to the Decision issued by the Primary Department, claiming that with regard to the item (profits from import discrepancies), a deduction of 10% of profits should be allowed for the period from 2013 to 2017, given that the reason for the discrepancies is that the customs extract is larger than the Company's recorded imports, as it includes customs duties and imports of fixed assets that should be excluded. With respect to the item (investments), Zakat payer is requesting a deduction for investments for the period from 2013 to 2017, as these investments are classified as non-current assets in the audited financial statements for the disputed years, and there is no record of any disposal to justify ZATCA's treatment of them as inventories. These investments are

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classified as fixed assets and should be deductible from Zakat base. As such, Zakat payer requests overturning of the primary Decision for the aforementioned reasons.

On Wednesday, 25/12/1442 AH, corresponding to 03/08/2021 AD, the Department decided to convene an electronic pleading for (10) days. ZATCA submitted a Reply, in which it responded to Zakat payer's appeal, stating that it confirms its argument submitted before the Primary Department regarding the appealed items. Additionally, ZATCA claims that the Primary Department' Decision is in accordance with the provisions of the Law. Furthermore, Zakat payer has not submitted a clear statement, and the points raised by Zakat payer do not deviate from what was previously presented and responded to by ZATCA. As such, ZATCA maintains the validity and correctness of its procedure, and requests dismissal of Zakat payer's appeal and upholding of the Primary Department's Decision, for the aforementioned reasons.

On Monday, 07/06/1443 AH corresponding to 10/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, after reviewing the Case file, the Department found that regarding the item (importers), Zakat payer's appeal centers on its objection to the adjustment resulting from the comparison of Zakat declaration with the customs extract, arguing that the latter contains costs that should be excluded. Meanwhile, ZATCA maintained that its procedures are valid and correct and has requested the dismissal of Zakat payer's appeal and the upholding of the primary Decision. Having carefully considered the subject matter of the dispute, and after reviewing the audited financial statements for the period from 2013 to 2017, and given that the dispute is primarily based on Documents, and considering that the data provided by customs serves as a primary piece of evidence from a neutral third party to prove the reality of foreign purchases, and considering that Zakat payer has not provided any evidence to justify deviating from the data provided by customs, and considering that the Zakat payer has not provided sufficient evidence to support its claim, this Department has ascertained the correctness of the conclusion reached by the Primary Department, and concludes by rejecting Zakat payer's appeal and upholding the primary Decision regarding this item.

With regard to the item (deduction of investment from zakat base), Zakat payer's appeal centers on the fact that these investment are classified as fixed assets and should be deducted from Zakat base. However, ZATCA argued that it maintains the validity and correctness of its procedure, and requested dismissal of Zakat payer's appeal and upholding of the primary Decision. Having carefully considered the subject matter of the dispute, and after reviewing the audited financial statements for the period from 2013 to 2017, and given that the dispute is primarily based on Documents, and since Zakat payer failed to provide proof supporting its claim, this Department found that the Primary Department's Decision was valid and the Grounds on which it was based were sufficient to uphold the same. Therefore, this Department concludes by dismissing Zakat payer's appeal and upholding the Primary Department's Decision regarding this item for its stated reasons.

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In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In from, Accept the appeal filed by Zakat payer/ Company……, CR. NO. (…), TIN No. (…), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2020-72) issued in Case No. (Z-8186-2019) in connection with Zakat assessment for the period (2013-2017).

Second: On Merits:

1. Dismiss Zakat payer's appeal regarding the item (Importers), and uphold the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the merits and Grounds stated herein.
2. Dismiss Zakat payer's appeal regarding the item (Deduction of investments from Zakat base), and uphold the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, in accordance with the merits and Grounds stated herein.

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

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-3
Case No. Z-35218-2021

Keywords
Zakat - Accounts - Bad Debts - Related Parties Creditors and Accounts Payable

Abstract

The Appellant (ZATCA) is requesting the cancellation of Primary Department Decision No. (Z-7126-2019) regarding Zakat assessment for the period from 2005 to 2012. ZATCA's appeal centers on its objection to Primary Department's reliance on Ministerial Resolution No (2555) dated 19/10/1417 AH. This Department has established the correctness of the conclusion reached by the Primary Department which issued the appealed Decision, and that the reasons upon which it based its Decision are sufficient to uphold this Decision. This Department has not observed anything that warrants correction or comment in light of what ZATCA has presented before it. Therefore, the Department hereby decides to dismiss the Zakat payer's appeal and uphold the primary Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on 11/06/1442 AH, corresponding to 24/01/2021AD, by ZATCA against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-318), issued in Case No. (Z-7126-2019) in connection with Zakat assessment for the period (2012-2015), in the case filed by Zakat payer against ZATCA, in which the Primary Department ruled as follows:
First: Confirm resolution of the dispute involving Plaintiff/ ..... Company (TIN.....) and the Defendant/ ZATCA regarding proposed capital increase for 2008, through the Defendant's agreement with the Plaintiff's argument on this matter.
Second: Cancel all other Decisions taken by the Defendant/ZATCA against Plaintiff/ Company ..... (TIN .....), in connection with the disputed Zakat assessments.
Dissatisfied with this Decision, Appellant (ZATCA) submitted a statement of appeal summarized as follows:
ZATCA is objecting to the Primary Department's Decision, specifically objecting to the part of the Decision regarding (cancellation of the Defendant's Decision and acceptance of the Plaintiff's claim regarding the lapse of the five-year period). ZATCA claims that the Primary Department's reasoning is incorrect, as Ministerial Resolution No. (2555) dated 19/10/1417 AH does not apply to the disputed Zakat assessment. ZATCA argues that the assessment was conducted while Clause II of the Implementing Regulation for Zakat Collection of 1438 AH was in effect, and based on paragraph (8/c) of Article (21) of the same Regulations. Furthermore, ZATCA has proven that Zakat payer's declarations

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contained inaccurate information, as evidenced by the amendments made by ZATCA to these declarations. Even if the Department were to accept the validity of the Primary Department's reliance on the aforementioned Decision, ZATCA made the amendments based on a letter from the General Court of Audit(formerly General Auditing Bureau), i.e. based on information that was not available to ZATCA at the time of the assessment. Moreover, regarding the cancellation of the Defendant's Decisions related to bad debts for 2006 and 2007, the related parties' creditors and trade receivables creditors, and adjusted carryforward losses for the period from 2007 to 2012, the Primary Department cancelled the assessment on these items based on the principle stating: "If a matter ceases to exist, that which is incidental to it shall also cease to exist." ZATCA clarifies that its actions were correct and in consistence with the Regulations and Ministerial Resolutions, as previously explained. As such, ZATCA requests overturning of the primary Decision for the aforementioned reasons.

The Department decided to open pleadings, therefore, Zakat payer submitted a Reply dated 18/07/1442 AH, corresponding to 01/03/2021 AD, in which it responded to ZATCA's appeal. Zakat payer argued that the Implementing Regulations issued under Ministerial Resolution No. (2082) superseded all previous Decisions, instructions, and circulars related to Zakat collection, except for the matter related to the statute of limitations. Zakat payer further argued that for Zakat payers who were subject to the statute of limitations under Resolution No. (2555), as in the Company's case, ZATCA cannot, after more than five years of submitting their returns, surprise them with additional Zakat claims due to the issuance of new Regulations and an amendment to the statute of limitations. At the time, these Zakat payers may have archived or destroyed their financial records, or they may have sold their businesses to other owners based on a due diligence report that, among other things, determined Zakat and tax obligations of the business before its purchase. The report usually states that there are no expected Zakat obligations on the business for years in which the declarations have been filed for five fiscal years, unless there was unlawful Zakat evasion. Therefore, it is illogical for ZATCA to surprise some Zakat payer who purchased a business in 2019 with Zakat dues on that business dating back to 2005. This would create instability in the financial situation of Zakat payers, which would negatively impact the economic cycle due to Zakat payers' ongoing concerns about Zakat and taxes. Therefore, we find that the Decision of the Primary Department is correct and applicable in terms of logic, and not what was stated in ZATCA's appeal. Regarding bad debts for 2006 and 2007, and the related party creditors, trade receivables creditors, and adjusted carryforward losses for 2007 to 2012, since the basis of the Company's objection in the first item invalidates ZATCA's right to assess Zakat for the period from 2005 to 2012, based on the legal principle stating: "If a matter ceases to exist, that which is incidental to it shall also cease to exist," and given that we have previously explained the high degree of consistency between Zakat payer's objection and the correct application of the five-year statute of limitations to Zakat payer's case, as supported by the Primary Department's Decision and the objective reasons we have provided for the Company's objection to these items, both in its objection to ZATCA and to the General Secretariat of Tax Committees, this invalidates ZATCA's assessment and the related amendments to these items. As such, Zakat payer requests dismissal of ZATCA's appeal and upholding of the appealed Decision of the Primary Department for the aforementioned reasons.

On Wednesday, 07/03/1443 AH, corresponding to13/10/2021 AD, the Department decided to hold an electronic pleading session for a period of (10) days, During this pleading, Zakat payer submitted some Documents that had the same content as the ones previously submitted.

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On Tuesday 01/06/1443 AH corresponding to 04/01/2022 AD, and by reviewing memorandums and responds of appeal, and by examining papers and Documents contained in the case file, the Department decided to that the case is ready for adjudication and issuance of Decision on its subject. Accordingly, the Department decided to close the pleading and schedule the case for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by ZATCA, the Department found that the formal requirements for appeal hearing have been met as stipulated by the relevant laws, regulations and Decisions. Therefore, the appeal is accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits, after reviewing the Case file, the Department found that ZATCA's appeal centered on challenging the Primary Department's reliance on Ministerial Resolution No. (2555) dated 19/10/1417 AH. However, Zakat payer requests to dismiss ZATCA's appeal and uphold the primary Decision. This Department has established the validity of the conclusion of the appealed Department, and that the reasons upon which it based its Decision are sufficient to uphold this Decision. Since the Department did not observe any matters that deserve correction or commentary in light of Documents provided by ZATCA before this Department, therefore, the Department concludes that what has been presented has not affected the outcome of the primary Decision regarding the appeal on the disputed items. As such, this Department decides to dismiss ZATCA's appeal and uphold Decision issued by First Department for Determination of Income Tax Violations and Disputes in Riyadh.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal filed by/ ZATCA against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-318) issued in Case No (Z-7126-2019) in connection with Zakat assessment for the period (2005-2012).

Second: On Merits:

ZATCA's appeal is rejected and the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh is upheld, in accordance with the reasons and justifications stated in this Decision.

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

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Keywords
Zakat - Accounts - Other Deductions - Investment Land and Construction- Other Additions to Base - Additional Capital

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Department Decision No. (ISZR-2020-168) regarding Zakat assessment for 2014. With respect to the item (Other deductions - Investment land and construction), Zakat payer's appeal centers on its objection to the inclusion of this item in Zakat base, arguing that it is intended for personal use and not for sale. ZATCA has not provided any evidence to deviate from this principle or to contradict what Zakat payer's financial statements clearly indicate. Therefore, this Department finds Zakat payer's position to be valid and correct. With respect to Zakat payer's appeal concerning the item (Other Additions to Zakat Base - Additional Capital), Zakat payer's appeal centers on the claim that debts should only be added to Zakat base up to the amount of fixed assets deducted from it. Upon careful consideration of the dispute, the Department has found that Zakat payer acknowledged in its appeal that the balance of the additional capital was against investment Real Estate, and that its argument in the appeal is based on ZATCA's failure to deduct the investment real estate funded by this account. As such, the Department, hereby, ruled to accept Zakat payer's appeal regarding the item (Other Deductions - Investment land and construction), and reject Zakat payer's appeal regarding the item (Other Additions to the Base - Additional Capital).

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on .. /../... corresponding to .. /..../.... AD, by/…, ID No. (.....), in his capacity as the Appellant Company's Attorney under POA No. (...), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-168) issued in Case No. (Z-9672-2019), in connection with Zakat assessment for 2014, filed by the Appellant against ZATCA, in which the Primary Department decided as follows:
Accept the Case filed by Plaintiff\ .... Company, CR. No. (.....), against the Defendant/ZATCA, in form and dismiss it on merits.
Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

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Zakat payer is objecting to the Primary Department's Decision. Regarding the item (Other Deductions - Investment Land and Construction), Zakat payer is claiming that the long-term investments, as per the financial statements audited by a certified public accountant, demonstrate that the Company's intention for these investments until 31 December 2016, was for personal use, not selling. This is supported by the fact that no real estate was sold from the establishment in 2010 until 2016, except for a single sale of a farm in 2014, which was an incidental sale and does not serve as a basis for all real estate. Regarding the Company's ownership of these real estate, it is exclusively owned by the Company. The reason for not registering such properties in the Company's name is to avoid inflating prices in the areas where the Company acquires real estate. The Company's board of directors decided to register the properties in the names of the partners and obtain their waivers to safeguard the Company's rights. Regarding the item (Other Additions to the Base - Additional Capital), Zakat payer is claiming that the additions during the year consisted of real estate investments contributed by the partners to the Company. Since ZATCA has not allowed the deduction of these real estate investments, Zakat payer argues that Zakat should not be levied on the year-end balance as the lunar year has not yet passed. Furthermore, Zakat payer contends that debts should only be included in Zakat base to the extent that they correspond to fixed assets excluded from Zakat base. Therefore, Zakat payer is requesting the overturning of the primary Decision for the aforementioned reasons.

On Tuesday,29/06/1443 AH, corresponding to 01/02/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal. In summary, ZATCA reaffirms its position as previously presented before the Primary Department. Regarding the item (failure to deduct real estate investment), Zakat payer has not provided supporting Documents to substantiate its claim, therefore, its objection was rejected. This is in accordance with the provisions of Article (20.3) of the Implementing Regulations for Zakah Collection issued in 1438 AH and Article 4 of the same Regulations. Similarly, regarding the item (partner's current account), since Zakat payer has not provided supporting Documents to substantiate its claim, its objection was rejected, in accordance with the provisions of Article 4 of the Implementing Regulations for Zakah Collection issued in 1438 AH and Article (20.3) of the same Regulations. As such, ZATCA maintains the correctness and validity of its procedures and requests dismissal of Zakat payer's appeal and upholding of the primary Decision based on the aforementioned reasons.

On Sunday, 26/07/1443 AH corresponding to 27/02/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having reviewed Case Documents and statement of claims submitted by Zakat payer, the Department found that the appeal had met its formal requirements in accordance with the conditions stipulated in relevant laws, regulations and Decisions, and thus the appeal is acceptable in from for being submitted by a person with capacity and within the period prescribed by law.

On merits, Regarding Zakat payer's appeal concerning the item (Other Deductions - Investment Land and Construction), Zakat payer's appeal centers on its objection to the inclusion of this item in Zakat base, arguing that it is intended for personal use and not for sale. However, ZATCA has maintained the correctness and validity of its procedure and requests to dismiss Zakat payer's appeal and uphold the primary Decision. Upon

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careful consideration of the dispute, the Department has found that the original nature of these funds is personal wealth, Zakat is not due unless there is an intention to engage in trade. Moreover, there is no evidence of active sales transactions related to these funds based on Zakat payer's audited financial statements. Since ZATCA has not provided any evidence to deviate from this principle or to contradict what Zakat payer's financial statements clearly indicate, this Department finds Zakat payer's position to be valid and correct. Regarding the registration of the disputed real estate in the names of the partners, financing of these assets was included in Zakat base as a taxable element, therefore, it is necessary to exclude the source of their financing from the base if their deduction is not accepted, in order to maintain the balance of the accounts. However, ZATCA has failed to do so. Therefore, this Department has decided to accept Zakat payer's appeal, deduct the disputed amounts from its Zakat base, assess it based on its audited financial statements, and overturn the Primary Department's Decision regarding this item.

Regarding the item (Other Additions to the Base - Additional Capital), Zakat payer's appeal centers on the claim that debts should only be added to Zakat base up to the amount of fixed assets deducted from it. However, ZATCA has maintained the correctness and validity of its procedures and requests to dismiss the Zakat payer's appeal and uphold the primary Decision. Upon careful consideration of the dispute, the department has found that Zakat payer has acknowledged in its appeal that the balance of the additional capital was against investment real estate, and that its argument in the appeal is based on ZATCA's failure to deduct the investment real estate funded by this account. This Department has accepted Zakat payer's appeal regarding the investment real estate based on the inclusion of the source of its financing in the base. As such, the Department concludes by rejecting Zakat payer's appeal regarding the additional capital, and upholding the Primary Department's Decision regarding this item.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal filed by Zakat payer/ Company....., CR. NO. (…), TIN No (…), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISZR-2020-168) issued regarding Case No. (Z-9672-2019) in connection with zakat assessment for 2014.

Second: On Merits:

1. Accept Zakat payer's appeal regarding the item (Other Deductions - Investment Land and Construction), and overturn the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, based on Grounds and merits mentioned herein.
2. Dismiss Zakat payer's appeal regarding the item (Other Additions to the Base - Additional Capital) and uphold the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, based on Grounds and merits mentioned herein.

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Keywords
Zakat - Accounts - Other Deductions - Investment Land and Construction- Other Additions to Base - Additional Capital

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Department Decision (ISZR-2020-169) regarding Zakat assessment for 2015. With respect to the item (Other Deductions - Investment Lands and Construction), Zakat payer's appeal is based on its objection to the inclusion of this item in Zakat base, arguing that it is intended for personal use and not for sale. Moreover, ZATCA has not provided any evidence to deviate from this principle or to contradict what Zakat payer's financial statements clearly indicate. Therefore, this Department finds Zakat payer's position to be valid and correct. With respect to Zakat payer's appeal concerning the item (Other Additions to the Base - Additional Capital), Zakat payer's appeal centers on the claim debts should only be added to Zakat base up to the amount of fixed assets deducted from it. Upon careful consideration of the dispute, the Department has established that Zakay payer's has acknowledged in its appeal that the balance of the additional capital was against investment real estate, and that its argument in the appeal is based on ZATCA's failure to deduct the investment real estate funded by this account. As such, the Department, hereby, ruled to accept Zakat payer's appeal regarding the item (Other Deductions - Investment land and construction), and reject Zakat payer's appeal regarding the item (Other Additions to the Base - Additional Capital).

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on 11/04/1442 AH, corresponding to 26/11/2020 AD, by/…, ID. No. (…), in his capacity as the Appellant Company's Attorney under POA No(.....), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-169) issued in Case No. (Z-9676-2019), in connection with Zakat assessment for 2015, filed by the Appellant against ZATCA, in which the primary Decision ruled as follows:

accept the case filed by the Plaintiff..... Company, C.R. No. (.....), against the Defendant/ ZATCA in form, and dismiss it on merits.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

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Zakat payer is objecting to the Primary Department's Decision. Regarding the item (Other Deductions - Investment Lands and Construction), Zakat payer is claiming that the long-term investments, as per the financial statements audited by a certified public accountant, demonstrate that the Company's intention for these investments until 31 December 2016, was for personal use, not selling. This is supported by the fact that no real estate was sold from the establishment in 2010 until 2016, except for a single sale of a farm in 2014, which was an incidental sale and does not serve as a basis for all real estate. Regarding the Company's ownership of these real estate, it is exclusively owned by the Company. The reason for not registering such properties in the Company's name is to avoid inflating prices in the areas where the Company acquires real estate. The Company's board of directors decided to register the properties in the names of the partners and obtain their waivers to safeguard the Company's rights. Regarding the item (Other Additions to the Base - Additional Capital), Zakat payer is claiming that the additions during the year consisted of real estate investments contributed by the partners to the Company. Since ZATCA has not allowed the deduction of these real estate investments, Zakat payer argues that Zakat should not be levied on the year-end balance as the lunar year has not yet passed. Furthermore, Zakat payer contends that debts should only be included in Zakat base to the extent that they correspond to fixed assets excluded from Zakat base. Therefore, Zakat payer is requesting the overturning of the primary Decision for the aforementioned reasons.

On Tuesday,29/06/1443 AH, corresponding to 01/02/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal. In summary, ZATCA reaffirms its position as previously presented before the Primary Department. Regarding the item (failure to deduct real estate investment), Zakat payer has not provided supporting Documents to substantiate its claim, therefore, its objection was rejected. This is in accordance with the provisions of Article (20.3) of the Implementing Regulations for Zakah Collection issued in 1438 AH and Article 4 of the same Regulations. Similarly, regarding the item (partner's current account), since Zakat payer has not provided supporting Documents to substantiate its claim, its objection was rejected, in accordance with the provisions of Article 4 of the Implementing Regulations for Zakah Collection issued in 1438 AH and Article (20.3) of the same Regulations. As such, ZATCA maintains the correctness and validity of its procedures and requests dismissal of Zakat payer's appeal and upholding of the primary Decision based on the aforementioned reasons.

On Sunday, 26/07/1443 AH corresponding to 27/02/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Regarding Zakat payer's appeal concerning the item (Other Deductions - Investment Land and Construction), Zakat payer's appeal centers on its objection to the inclusion of this item in Zakat base, arguing that it is intended for personal use and not for sale. However, ZATCA has maintained the correctness and validity of its procedure and requests to dismiss Zakat payer's appeal and uphold the primary Decision. Upon

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careful consideration of the dispute, the Department has found that the original nature of these funds is personal wealth, Zakat is not due unless there is an intention to engage in trade. Moreover, there is no evidence of active sales transactions related to these funds based on Zakat payer's audited financial statements. Since ZATCA has not provided any evidence to deviate from this principle or to contradict what Zakat payer's financial statements clearly indicate, this Department finds Zakat payer's position to be valid and correct. Regarding the registration of the disputed real estate in the names of the partners, financing of these assets was included in Zakat base as a taxable element, therefore, it is necessary to exclude the source of their financing from the base if their deduction is not accepted, in order to maintain the balance of the accounts. However, ZATCA has failed to do so. Therefore, this Department has decided to accept Zakat payer's appeal, deduct the disputed amounts from its Zakat base, assess it based on its audited financial statements, and overturn the Primary Department's Decision regarding this item.

Regarding the item (Other Additions to the Base - Additional Capital), Zakat payer's appeal centers on the claim that debts should only be added to Zakat base up to the amount of fixed assets deducted from it. However, ZATCA has maintained the correctness and validity of its procedures and requests to dismiss the Zakat payer's appeal and uphold the primary Decision. Upon careful consideration of the dispute, the Department has found that Zakat payer has acknowledged in its appeal that the balance of the additional capital was against investment real estate, and that its argument in the appeal is based on ZATCA's failure to deduct the investment real estate funded by this account. This Department has accepted Zakat payer's appeal regarding the investment real estate based on the inclusion of the source of its financing in the base. As such, the Department concludes by rejecting Zakat payer's appeal regarding the additional capital, and upholding the Primary Department's Decision regarding this item.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal filed by Zakat payer/ Company....., CR. NO. (…), TIN No (…), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISZR-2020-169) issued regarding Case No. (Z-9676-2019) in connection with zakat assessment for 2015.

Second: On Merits:

1. Accept Zakat payer's appeal regarding the item (Other Deductions - Investment Land and Construction), and overturn the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, based on Grounds and merits mentioned herein.
2. Dismiss Zakat payer's appeal regarding the item (Other Additions to the Base - Additional Capital) and uphold the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, based on Grounds and merits mentioned herein.

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Keywords
Zakat - Accounts - Other Deductions - Investment Land and Construction- Other Additions to Base - Additional Capital

Abstract

The Appellant (Zakat payer) is requesting the cancellation of Primary Department Decision (ISZR-2020-170) regarding Zakat assessment for 2016. With respect to the item (Other Deductions - Investment Lands and Construction), Zakat payer's appeal is based on its objection to the inclusion of this item in Zakat base, arguing that it is intended for personal use and not for sale. Moreover, ZATCA has not provided any evidence to deviate from this principle or to contradict what Zakat payer's financial statements clearly indicate. Therefore, this Department finds Zakat payer's position to be valid and correct. With respect to Zakat payer's appeal concerning the item (Other Additions to the Base - Additional Capital), Zakat payer's appeal centers on the claim debts should only be added to Zakat base up to the amount of fixed assets deducted from it. Upon careful consideration of the dispute, the Department has established that Zakay payer's has acknowledged in its appeal that the balance of the additional capital was against investment real estate, and that its argument in the appeal is based on ZATCA's failure to deduct the investment real estate funded by this account. As such, the Department, hereby, ruled to accept Zakat payer's appeal regarding the item (Other Deductions - Investment land and construction), and reject Zakat payer's appeal regarding the item (Other Additions to the Base - Additional Capital).

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on 11/04/1442 AH, corresponding to 26/11/2020 AD, by/…, ID. No. (…), in his capacity as the Appellant Company's Attorney under POA No(.....), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISZR-2020-170) issued in Case No. (Z-9678-2019), in connection with Zakat assessment for 2016, filed by the Appellant against ZATCA, in which the primary Decision ruled as follows:

accept the case filed by the Plaintiff..... Company, C.R. No. (.....), against the Defendant/ ZATCA in form, and dismiss it on merits.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

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Zakat payer is objecting to the Primary Department's Decision. Regarding the item (Other Deductions - Investment Lands and Construction), Zakat payer is claiming that the long-term investments, as per the financial statements audited by a certified public accountant, demonstrate that the Company's intention for these investments until 31 December 2016, was for personal use, not selling. This is supported by the fact that no real estate was sold from the establishment in 2010 until 2016, except for a single sale of a farm in 2014, which was an incidental sale and does not serve as a basis for all real estate. Regarding the Company's ownership of these real estate, it is exclusively owned by the Company. The reason for not registering such properties in the Company's name is to avoid inflating prices in the areas where the Company acquires real estate. The Company's board of directors decided to register the properties in the names of the partners and obtain their waivers to safeguard the Company's rights. Regarding the item (Other Additions to the Base - Additional Capital), Zakat payer is claiming that the additions during the year consisted of real estate investments contributed by the partners to the Company. Since ZATCA has not allowed the deduction of these real estate investments, Zakat payer argues that Zakat should not be levied on the year-end balance as the lunar year has not yet passed. Furthermore, Zakat payer contends that debts should only be included in Zakat base to the extent that they correspond to fixed assets excluded from Zakat base. Therefore, Zakat payer is requesting the overturning of the primary Decision for the aforementioned reasons.

On Tuesday,29/06/1443 AH, corresponding to 01/02/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal. In summary, ZATCA reaffirms its position as previously presented before the Primary Department. Regarding the item (failure to deduct real estate investment), Zakat payer has not provided supporting Documents to substantiate its claim, therefore, its objection was rejected. This is in accordance with the provisions of Article (20.3) of the Implementing Regulations for Zakah Collection issued in 1438 AH and Article 4 of the same Regulations. Similarly, regarding the item (partner's current account), since Zakat payer has not provided supporting Documents to substantiate its claim, its objection was rejected, in accordance with the provisions of Article 4 of the Implementing Regulations for Zakah Collection issued in 1438 AH and Article (20.3) of the same Regulations. As such, ZATCA maintains the correctness and validity of its procedures and requests dismissal of Zakat payer's appeal and upholding of the primary Decision based on the aforementioned reasons.

On Sunday, 26/07/1443 AH corresponding to 27/02/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Regarding Zakat payer's appeal concerning the item (Other Deductions - Investment Land and Construction), Zakat payer's appeal centers on its objection to the inclusion of this item in Zakat base, arguing that it is intended for personal use and not for sale. However, ZATCA has maintained the correctness and validity of its procedure and requests to dismiss Zakat payer's appeal and uphold the primary Decision. Upon

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careful consideration of the dispute, the Department has found that the original nature of these funds is personal wealth, Zakat is not due unless there is an intention to engage in trade. Moreover, there is no evidence of active sales transactions related to these funds based on Zakat payer's audited financial statements. Since ZATCA has not provided any evidence to deviate from this principle or to contradict what Zakat payer's financial statements clearly indicate, this Department finds Zakat payer's position to be valid and correct. Regarding the registration of the disputed real estate in the names of the partners, financing of these assets was included in Zakat base as a taxable element, therefore, it is necessary to exclude the source of their financing from the base if their deduction is not accepted, in order to maintain the balance of the accounts. However, ZATCA has failed to do so. Therefore, this Department has decided to accept Zakat payer's appeal, deduct the disputed amounts from its Zakat base, assess it based on its audited financial statements, and overturn the Primary Department's Decision regarding this item.

Regarding the item (Other Additions to the Base - Additional Capital), Zakat payer's appeal centers on the claim that debts should only be added to Zakat base up to the amount of fixed assets deducted from it. However, ZATCA has maintained the correctness and validity of its procedures and requests to dismiss the Zakat payer's appeal and uphold the primary Decision. Upon careful consideration of the dispute, the Department has found that Zakat payer has acknowledged in its appeal that the balance of the additional capital was against investment real estate, and that its argument in the appeal is based on ZATCA's failure to deduct the investment real estate funded by this account. This Department has accepted Zakat payer's appeal regarding the investment real estate based on the inclusion of the source of its financing in the base. As such, the Department concludes by rejecting Zakat payer's appeal regarding the additional capital, and upholding the Primary Department's Decision regarding this item.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal filed by Zakat payer/ Company....., CR. NO. (…), TIN No (…), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISZR-2020-170) issued regarding Case No. (Z-9678-2019) in connection with zakat assessment for 2016.

Second: On Merits:

1- Accept Zakat payer's appeal regarding the item (Other Deductions - Investment Land and Construction), and overturn the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, based on Grounds and merits mentioned herein.

2- Dismiss Zakat payer's appeal regarding the item (Other Additions to the Base - Additional Capital) and uphold the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, based on Grounds and merits mentioned herein.

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Decision No. IR-2022-146
Case No. Z-32881-2020

Keywords
Zakat - Accounts - Current Account - Trade Accounts Payable - Retained Earnings - Acceptance of Appeal

Abstract

The Appellant (Zakat payer) has filed this appeal to request the cancellation of Primary Department Decision No (ISR-2020-228) regarding zakat assessment for 2016. Regarding the item (current account), Zakat payer's appeal centers on objecting to the inclusion of this item in zakat base. Zakat payer argues that the full amount on which zakat was assessed has not completed one whole lunar year. However, the Department has established that the item (current account) represents Zakat payer's claims against other parties (debtors), and this item does not constitute one of the components of Zakat payer's current account. Therefore, it is not included in the equation for calculating zakat base. Regarding the item (trade accounts payable), Zakat payer's appeal centers on objecting to the inclusion of this item in zakat base due to the fact that one whole lunar year has not passed on this item. The Department has established that the item trade accounts payable is classified, according to accounting principles, as short-term liabilities that are usually settled within the following year. Regarding the item (retained earnings), Zakat payer's appeal centers on objecting to the inclusion of this item in zakat base. It claims that this is merely a correction of accounting errors from previous years. The Department has found that, regarding the item retained earnings, the audited financial statements for the beginning of the year show a reduction in the balance due to the correction of these errors, by the exact amount Zakat payer is disputing. Additionally, this correction was offset by a reduction in assets excluded from zakat base, as per the financial statements for the disputed year. Therefore, The Department, hereby, ruled to accept the appeal and amend the primary Decision with respect to the item (current account), and overturn the primary Decision with respect to the item (trade accounts payable) and the item (retained earnings).

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the Appeal filed on ..../...../..... AH, corresponding to ..../...../..... AD, by/ …., ID No. (...), in his capacity as the Appellant Enterprise's Attorney under POA No. (.....), against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ISR-2020-228) issued in Case No. (Z-5404-2020), related to Zakat assessment for 2016, filed by the Appellant against ZATCA, in which the primary Decision ruled as follows:

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Accept the case filed by the Plaintiff/ ..... ,ID No. (....), Owner of (.... Enterprise), C.R No. (...), against the Defendant/ ZATCA in form and reject the same on merits.

Since Zakat Payer (... Enterprise) was dissatisfied with this Decision, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat payer is objecting to the appealed Decision issued by the Primary Department, claiming that regarding the item (Owner's current account), the balance of the owner's current account (additional capital) should be deducted. This is because this amount was adjusted for the mentioned years due to errors in the financial statements for the period from 2014 to 2016. The previous management had revalued the assets and recorded them in the books in exchange for inflating the retained earnings and the partner's current account in 2014. Furthermore, the current account balance has been erroneously inflated. A detailed statement of the owner's current account has been attached, which shows balances owed by relatives of the owner who are not directly involved in the business. Therefore, their balances represent a liability of the owner, not the Company. Additionally, the credit entries in the owner's current account are personal expenses for the owner and his family (i.e., offsetting the account). Moreover, the increase in the credit balance is to finance the operating activities and not to finance deductible assets (fixed assets) or sourced from equity. Regarding the item (accounts payable), Zakat payer is requesting a deduction, arguing that these are balances owed to certain suppliers and will be paid within a short period, and they have not completed one whole lunar year. As for the item (retained earnings), Zakat payer claims that the retained earnings amounts represent adjustments for previous years that have been closed to correct the financial position of the entity. These accumulated due to a previous accounting error that was rectified in 2016. The management of the old entity, at the beginning of 2014 and when preparing the financial statements, recorded an entry after revaluing the assets that led to an inflation of both the fixed assets item and the retained earnings item. Consequently, the entry that was made to the opening balances (increase) for 2014 was mistakenly carried forward until 2016. Therefore, the opening balance entries amounting to SAR 79,255,798, which originated from an inflation in fixed assets and projects under construction, were recorded. As such, the Appellant is requesting the deduction of the retained earnings from zakat base. Additionally, Zakat payer is requesting overturning of the appealed Decision of issued by the Primary Department for the aforementioned reasons.

On Tuesday,29/06/1443 AH, corresponding to 01/02/2022 AD, the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal. In summary, ZATCA reiterated its position presented before the Primary Department. Regarding the item (owner's current account), the amount added to zakat base was determined by comparing the beginning and end of period balances and adding the lower amount, in accordance with Fatwa No. 22665 dated 115/04/424 AH and Article (4.2) of the Implementing Regulation for Zakat Collection issued in 1438 AH. Additionally, Zakat payer did not provide evidence to prove that these balances have not completed one whole lunar year. Therefore, its objection was rejected based on Article (20.3) of the Implementing Regulation for Zakat Collection issued in 1438 AH. Regarding the item (accounts payable), the balances of this item were added for as they completed the one-year period in accordance with Article (4.5), Clause One of the Implementing Regulation for Zakat Collection issued in 1438 AH. Furthermore, Zakat payer did not provide supporting documentary evidence for its claim, and therefore its objection was rejected based on Article (20.3) of the Implementing Regulation for Zakat Collection. As for the item (retained earnings), Zakat payer was previously requested during the audit phase to provide Documents related to the distribution of profits, and it was contacted multiple times but did not respond. Consequently, the opening balance of the retained earnings was added due to the lack of documentation, in accordance with Article (4.8),

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Clause (One) of the Implementing Regulation for Zakat Collection issued in 1438 AH. Moreover, Zakat payer did not provide supporting documentary evidence for its claim, and therefore its objection was rejected based on Article (20.3) of the Implementing Regulation for Zakat Collection. Accordingly, ZATCA maintains the correctness and validity of its procedures and requests the dismissal of Zakat payer's appeal and upholding of the Primary Department's Decision for the aforementioned reasons.

On Sunday, 24/08/1443 AH corresponding to 27/03/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, As for Zakat payer's appeal on item (Current Account), Zakat payer's appeal centers on the objection to including this item in zakat base, as the full amount on which zakat has been calculated has not completed a full lunar year. However, ZATCA has maintained the correctness and validity of its procedures and requests to dismiss Zakat payer's appeal and uphold the primary Decision. Having carefully examined the subject of the dispute, and considering the statement extracted from the customer's accounts, it appears that the account balance at the beginning of the year was SAR 41,829,745, while the debit transactions amounted to SAR 23,993,695. Given that payments from the current account are made from the beginning-of-period balance, the remaining balance from the beginning of the period after deducting the debit transactions is SAR 17,836,050, which is the amount that has completed a full lunar year. Therefore, this amount shall be added to zakat base, excluding the rest of the amount added by ZATCA. As for what Zakat payer referred to as the 'second statement,' it has been found that it represents Zakat payer's claims against other parties (debtors). This item is not considered one of the components of Zakat payer's current account and, therefore, does not enter into the equation for calculating zakat base. Zakat payer's claim that these amounts belong to the Owner of the Enterprise and not to the Enterprise itself does not affect this conclusion, as the accounts of Zakat payer show that the amounts referred to in the second statement represent Enterprise's equity against other parties. Therefore, this Department has decided to amend the Primary Department's Decision by determining that only the amount of SAR 17,836,050, which has completed a full lunar year from the current account, shall be added to zakat base, excluding the rest of the amount added by ZATCA from this account.

Regarding Zakat payer's appeal concerning the item (trade account payable). Zakat payer's appeal centers on its objection to adding this item to Zakat base while this item has not completed one whole lunar year. However, ZATCA has maintained the correctness and validity of its procedure and requests to dismiss Zakat payer's appeal and uphold the primary Decision. Having carefully considered the matter in dispute, and given that the beginning-of-period balance for the accounts representing this item is SAR 24,609,144, while debit transactions amounted to SAR 33,123,330, indicating that the entire beginning-of-period balance has been paid, in addition to payments made during the year, and considering that these accounts are classified as short-term liabilities that are usually paid within the following year, Since ZATCA has not presented any evidence that contradicts the analysis provided by Zakat payer, the Department has decided to accept Zakat payer's

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appeal regarding this item and to overturn the primary Decision in relation to this specific item.

Regarding Zakat payer's appeal concerning the item (retained earnings), Zakat payer's appeal centers on its objection to including this item in zakat base, arguing that it represents a correction of accounting errors from previous years. However, ZATCA has maintained the correctness and validity of its procedure and requests to dismiss Zakat payer's appeal and uphold the primary Decision. Upon careful consideration of the dispute and after reviewing the Documents submitted by Zakat payer, the Department has found that the opening balance of retained earnings, as per the audited financial statements, has been reduced by the same amount that Zakat payer is claiming as a correction for the errors. Furthermore, this correction has been accompanied by a reduction in the deductible assets from zakat base, which were affected by the error correction, as per the financial statements for the disputed year.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ Enterprise....., CR. NO. (…), TIN No (…) against Second Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (ISR-2020-228) issued regarding Case No. (Z-5404-2020) in connection with zakat assessment for 2016.

Second: On Merits:

1. Accept Zakat payer's appeal regarding the item (current account), and amend the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, to specify the addition of SAR 17,836,050, which is the amount from the current account that has completed a full lunar year, based on the Grounds and merits mentioned herein.
2. Accept the appeal filed by Zakat payer regarding the item (trade accounts payable), and overturn the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, based on the Grounds and merits mentioned herein.
3. Accept the appeal filed by Taxpayer regarding the item (retained earnings), and overturn the Decision issued by Second Department for Determination of Income Tax Violations and Disputes in Riyadh, based on the Grounds and merits mentioned herein.

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Keywords
Zakat - Accounts - Undeclared Revenue

Abstract

The Appellant (Zakat payer) has filed this appeal to request the cancellation of Primary Department Decision No. (IZD-2020-185). After reviewing the Case file, the Department found that ZATCA's appeal regarding the item (undeclared revenue), centers on the existence of undocumented discrepancies between what Zakat payer disclosed in its declaration and what was shown in the audit balance. Upon considering the subject of the dispute, and after examining the Case file, analyzing and studying the audit balance and the Zakat payer's audited financial statements for 2015, no undeclared revenue was found. As such, it became apparent to this Department that the conclusion reached by the Primary Department which issued the appealed Decision is valid. Therefore, the Department dismisses the appeal and upholds Primary Department's Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on ../../... /...., corresponding to .. /.. /... AD, by ZATCA against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-185) issued in Case No. (Z-9652-2019) in connection with Zakat assessment for 2015, in the Case filed by Zakat payer against ZATCA, in which the Primary Department decided as follows:

In from:

Accept the Case filed by the Plaintiff/ Company ..... C.R. No. (...) in form.

On Merits:

Accept the objection submitted by the Plaintiff/ Company ..... C.R. No. (...) Regarding the item (undeclared revenue).

Dissatisfied with this Decision, Appellant (ZATCA) submitted a statement of appeal summarized as follows:

ZATCA is objecting to the appealed Decision issued by the Primary Decision. It claims that after conducting a field inspection using the powers granted to ZATCA and stipulated in the Implementing Regulations for Zakat, and after reviewing the field inspection letter, it was found through the audit balance that the revenue was (SAR 47,732,972), while what was declared by Zakat payer was (SAR 28,226,972). The team tasked with the audit requested some Documents, but Zakat payer did not provide anything to prove the accuracy of what was stated in its declaration, and therefore its request was rejected. ZATCA bases its procedures on Article (21.1) of the Implementing Regulations for Zakat

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Collection issued in 1438 AH, Article (21.8), Article (20.3), and Article (18.1) of the same Regulations. ZATCA requests that no new Documents be accepted from Zakat payer, and requests overturning of the Primary Department's Decision for the aforementioned reasons.

The Department decided to open pleadings. Zakat payer submitted a Reply, dated 10/04/1442 AH, corresponding to 25/11/2020 AD, in which it responded to ZATCA's appeal. Zakat payer affirmed the accuracy of the Company's declared revenue value in the audited financial statements ending on 31/12/2015 AD, and its consistency with the revenue mentioned in the audit balance. ZATCA's Legal Department accepted the objection for the disputed year and the payment was made at that time. Therefore, Zakat payer requests the dismissal of ZATCA's appeal and upholding of the Primary Department's Decision for the aforementioned reasons.

On Wednesday, 07/03/1443 AH corresponding to13/10/2021 AD, the Department decided to hold a 10-day e-hearing session, During this pleading, Zakat payer submitted some Documents.

On Thursday 24/06/1443 AH corresponding to 27/01/2022 AD, upon reviewing appeal notes and replies thereto, examining all papers and Documents contained in Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision on its merits. Accordingly, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by ZATCA, the Department found that the formal requirements for appeal hearing have been met as stipulated by the relevant laws, regulations and Decisions. Therefore, the appeal is accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, After reviewing the Case file, the Department found that regarding the item (undeclared revenue), ZATCA's appeal centers on the existence of undocumented discrepancies between what Zakat payer disclosed in its declaration and what was shown in the audit balance, however, Zakat payer argued that it request dismissal of ZATCA's appeal and upholding of the Primary Department's Decision. Having carefully considered the subject matter of dispute and after examining the Case file, analyzing, and studying Zakat payer's audit balance and audited financial statements for 2015, no undisclosed revenue was found. As such, the Department has established the validity of the conclusion made by the Primary Department, issuer of the appealed Decision, and that the reasons upon which that Decision was based are sufficient to uphold it. Accordingly, this Department hereby dismisses ZATCA's appeal and upholds the primary Decision on this matter.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal filed by/ ZATCA against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-185) issued in Case No (Z-9652-2019) in connection with Zakat assessment for 2015.

Second: On Merits:

Dismiss the appeal filed by ZATCA regarding the item (undeclared revenue) and uphold the Decision issued by First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds and merits mentioned therein.

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Keywords
Zakat - Accounts - Imports - Advance Payments from Customers - Creditor Sister Companies - Trade Accounts Payable

Abstract

The Appellant (Zakat Payer) filed its apple to request cancellation of Primary Department Decision No. (IZD-2020-174) regarding zakat assessment for the period from 2009 to 2013. With respect to item (Imports for 2010 and 2011), Zakat Payer filed its appeal to claim to have recorded both local and foreign purchases but argues that the system does not allow for a separate statement of foreign purchases. The Department found that ZATCA's assessment was made after the prescribed period for amending Zakat payer's declaration had expired. With respect to item (Advance payments from customers for the period (2010-2013), Zakat payer objects to the inclusion of these payments in Zakat base, claiming that this item has not completed one whole year. The Department found that for the period from 2010 to 2012, ZATCA's assessment was made after the prescribed period for amending Zakat payer's declaration. As for 2013, the Department found that Zakat payer had not provided evidence to support its claim. With respect to item (Creditor sister companies for the period (2010-2013), Zakat payer's appeal lies in objecting to the inclusion of this item in Zakah base, claiming that one whole lunar year had not passed. The Department found that ZATCA's assessment for these years was made after the prescribed period for amending Zakat payer's declaration had expired. As for this item in 2013, the Department found that Zakat payer had not provided any evidence to support its claim. Similarly, with respect to item (Trade accounts payable for the period (2010-2013), Zakat payer's appeal lies in objecting to the inclusion of this item in Zakat base, claiming that one whole lunar year had not passed. The Department found that ZATCA's assessment for these years was made after the prescribed period for amending Zakat payer's declaration had expired. As for this item in 2013, the Department found that Zakat payer had not provided any evidence to support its claim. Therefore, the Department, hereby, decided to accept the appeal with regard to some items and reject it for others.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal presented on./../..... AH corresponding to/.... AD /.... AD, by ....., ID No. (...) in his capacity as the Appellant Company's Attorney under POA No. (…), against First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2020-174), issued in Case No. (Z-10002-

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2019), in connection with zakat assessment for the period from 2009 to 2013), filed by the Appellant against ZATCA, in which the Primary Department's Decision ruled as follows:
In from:
Accept the Case filed by the Plaintiff/ ..... Company, C.R. No. (...), in form.
On Merits:

1. Confirm resolution of the dispute involving the parties to the Case regarding the item Revenue for 2009.
2. Confirm resolution of the dispute involving the parties to the Case regarding the item Expense for 2009.
3. Confirm resolution of the dispute involving the parties to the Case regarding the item End of Service Provision made for 2009 and 2010.
4. Confirm resolution of the dispute involving the parties to the Case regarding the item Capital for
5. Confirm resolution of the dispute involving the parties to the Case regarding the item Profits carried forward for 2009.
6. Confirm resolution of the dispute involving the parties to the Case regarding the item statutory reserve for 2009.
7. Confirm resolution of the dispute involving the parties to the Case regarding the item End of Service Provision carried over for the period from 2009 to 2011.
8. Dismiss the objection filed by the Plaintiff (.....Co.), C.R. No. (....), with respect to the item Difference in import profits for the period from 2009 to 2013.
9. With respect to the item advance payments from customers for the period from 2009 to 2013:
   A. Confirm resolution of the dispute involving the parties to the Case regarding the item advance payments from customers for 2009.
   B. Dismiss the objection filed by the Plaintiff (.....Co.), C.R. No. (....), with respect to the item accounts receivable for the period from 2010 to 2013.
10. With respect to the item Creditor sister companies for the period from 2009 to 2013:
    A. Confirm resolution of the dispute involving the parties to the Case regarding 2009.
    B. Dismiss the objection filed by the Plaintiff (.....Co.), C.R. No. (....), with respect to the period from 2010 to 2013.
11. With respect to the item Trade accounts payable for the period from 2009 to 2013:
    A. Confirm resolution of the dispute involving the parties to the Case regarding 2009.
    B. Dismiss the objection filed by the Plaintiff (.....Co.), C.R. No. (....), for the period from 2010 to 2013.
12. Dismiss the objection filed by the Plaintiff (.....Co.), C.R. No. (....), with respect to the item Other accounts payable for 2010 and 2011.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:
Zakat payer is objecting to the appealed Decision issued by the Primary Department. Regarding the item (imports for 2010 and 2011, Zakat payer claims that both domestic and foreign purchases are recorded in the same item and cannot be separated from the system, as the system does not allow for the issuance of a separate statement for foreign purchases. Zakat payer has attached statements showing the amounts of both foreign and domestic purchases. Regarding the item (advance payments from customers for the period from 2010 to 2013), Zakat payer claims to have attached Documents proving that the prescribed period for assessment has not expired for this item. Regarding the item (creditor sister companies for the period from 2010 to 2013), Zakat payer claims to have attached Documents proving that the prescribed period for assessment has not expired for this item and that the nature of these transactions is commercial. Regarding the item (trade accounts payable for the period from 2010 to 2013), Zakat payer claims to have attached

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Documents proving that the prescribed period for assessment has not expired for this item. As such, Zakat payer requests overturning of the Primary Department's Decision for the aforementioned reasons.

On Wednesday, 05/12/1442 AH (corresponding to 14/07/2021 AD), the Department decided to hold a 10-day e-hearing session. Therefore, ZATCA submitted a Reply in response to Zakat payer's appeal. ZATCA reaffirmed its position previously presented before the Department, stating the following: Regarding the item (difference in import profits), ZATCA, after reviewing the audit, found that the foreign imports were greater than what was recorded in the accounts. Based on Circular No. (9/2030) of 1430 AH and Article (20.3) of the Implementing Regulation for Zakat Collection issued in 1438 AH, ZATCA maintains the conclusion of the Primary Department's Decision regarding this item. With respect to the item (advance payments from customers), ZATCA has added the balance of this item as a source of financing, considering it a component of zakat base, in accordance with Fatwa No. (23408), Fatwa No. (2266), Fatwa No. (2/3077), and Article (4), paragraph (4/5) of Clause One of the Implementing Regulation for Zakat Collection. Regarding the item (creditor sister companies) ZATCA has added the balance of this item as a source of financing, considering it a component of zakat base, in accordance with Fatwa No. (22665) and Article (4.5) of the Implementing Regulation for Zakat Collection. With respect to the item (trade accounts payable),ZATCA has added the balance of this item as a source of financing, considering it a component of zakat base, in accordance with Fatwa No. (22665) and Article (4.5) of the Implementing Regulation for Zakat Collection. As such, ZATCA maintains the correctness and validity of its procedures and requests the dismissal of Zakat payer's appeal and upholding of the Primary Department's Decision for the aforementioned reasons.

On Tuesday, 06/03/1443 AH (corresponding to 12/01/2021 AD), after reviewing Zakat payer's appeal, and upon being informed by the Secretariat that the Primary Department's Decision was made available through the e-system on 15/10/2020, the Department requested that Zakat payer inform it of the date on which it was notified of the Primary Department's Decision and the date on which it filed the appeal against the challenged Decision, along with supporting evidence, within a period of seven days from that date. However, the Zakat Payer did not provide the requested documentation.

On Monday, 07/06/1443 AH (corresponding to 10/01/2022 AD), after reviewing the Case file, regarding the dispute over zakat assessment for 2013 on advance payments, this Department requested that Zakat payer submit an analytical statement and a reconciliation from its records regarding the origination date of each advance payment amount and the date of use of that amount, showing the balance that has completed one whole lunar year at the end of 2013. Regarding the dispute over zakat assessment for 2013 on creditor sister companies, this Department requested that Zakat payer submit an analytical statement and a reconciliation from its records regarding the origination date of each amount due to the sister companies and the date of payment of that amount, showing the balance that has completed one whole lunar year at the end of 2013. Regarding the dispute over zakat assessment for 2013 on the item trade account payable, this Department requested that Zakat payer submit an analytical statement and a reconciliation from its records regarding the origination date of each debt and the date of payment of that debt, showing the balance that has completed one whole lunar year at the end of 2013. Zakat payer was required to submit this within 30 days from this date.

On Monday, 25/08/1443 AH (corresponding to 28/03/2022 AD), after reviewing the Case file, regarding the dispute over zakat assessment for 2013 on advance payments, this Department requested for the second time that Zakat payer submit an analytical statement and a reconciliation from its records regarding the origination date of each advance payment amount and the date of use of that amount, showing the balance that has

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completed one whole lunar year at the end of 2013. Regarding the dispute over zakat assessment for 2013 on creditor sister companies, this Department requested that Zakat payer submit an analytical statement and a reconciliation from its records regarding the origination date of each amount due to the sister companies and the date of payment of that amount, showing the balance that has completed one whole lunar year at the end of 2013. Regarding the dispute over zakat assessment for 2013 on the item trade account payable, this Department requested that Zakat payer submit an analytical statement and a reconciliation from its records regarding the origination date of each debt and the date of payment of that debt, showing the balance that has completed one whole lunar year at the end of 2013. Zakat payer was required to submit this within 7 days from this date.

On Wednesday, 12/09/1443 AH corresponding to 06/04/2022 AD, upon reviewing Appeal memoranda and replies thereto, and after examining Documents of the Case file, the Department decided that the Case was ready for adjudication and issuance of a Decision, and therefore decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, regarding Zakat payer's appeal concerning the item (Imports for 2010 and 2011). Zakat payer's appeal centers on its claim that both domestic and foreign purchases were recorded under the same item, but the system does not allow for a separate statement to be issued for foreign purchases. However, ZATCA has maintained the correctness and validity of its procedure and requests to dismiss Zakat payer's appeal and uphold the primary Decision. Having carefully considered the subject of the dispute and examined the Case file, this Department finds that ZATCA's assessment was made after the prescribed period for making amendments to Zakat payer's declaration had expired. The law specifies a period of five years from the final deadline for Zakat payer to submit its zakat declaration for each year. Given that these rules are intended to ensure the stability of transactions and to prevent Zakat payers from experiencing uncertainty without a specific timeframe within which they can be assured that their financial position will not be disrupted, this Department concludes that ZATCA's action in making these amendments after the prescribed period has expired is invalid. Consequently, this Department decides to accept the Zakat payer's appeal and overturn the Primary Department's Decision in this regard.

Regarding Zakat payer's appeal concerning the item (advance payments from customers for the period from 2010 to 2013). Zakat payer's appeal centers on its objection to adding this item to Zakat base and it claims that this item has not completed one whole lunar year. However, ZATCA has maintained the correctness and validity of its procedure and requests to dismiss Zakat payer's appeal and uphold the primary Decision. Regarding the period from 2010 to 2012, having carefully considered the subject of the dispute, this Department found that ZATCA's assessment for this period was made after the prescribed period for making amendments to Zakat payer's declaration had expired. The law specifies a period of five years from the final deadline for Zakat payer to submit its zakat declaration for each year, Given that these rules are intended to ensure the stability of transactions and to prevent Zakat payers from experiencing uncertainty without a specific timeframe within which they can be assured that their financial position will not be disrupted, this Department concludes that ZATCA's action in making these amendments after the prescribed period has expired is invalid. Consequently, this Department decides

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to accept the Zakat payer's appeal and overturn the Primary Department's Decision in this regard.

Regarding the dispute concerning this item for 2013, given that this Department requested Zakat payer to submit an analytical statement and a reconciliation from its records regarding the origination date of each advance payment amount and the date of use of that amount, showing the balance that has completed one whole lunar year at the end of 2013, and since the Zakat payer has not provided this Department with any evidence to support its claim, and since the Department has not observed anything that would warrant further clarification or comment in light of what has been presented to it, this Department concludes that what has been presented has not affected the outcome of the Primary Department's Decision regarding this item. Therefore, the Department has decided to reject the appeal and uphold the Decision regarding this item.

Regarding Zakat payer's appeal concerning the item (creditor sister companies for the period from 2010 to 2013). Zakat payer's appeal centers on its objection to adding this item to Zakat base and it claims that this item has not completed one whole lunar year. However, ZATCA has maintained the correctness and validity of its procedure and requests to dismiss Zakat payer's appeal and uphold the primary Decision. Regarding the period from 2010 to 2012, having carefully considered the subject of the dispute, this Department found that ZATCA's assessment for this period was made after the prescribed period for making amendments to Zakat payer's declaration had expired. The law specifies a period of five years from the final deadline for Zakat payer to submit its zakat declaration for each year, Given that these rules are intended to ensure the stability of transactions and to prevent Zakat payers from experiencing uncertainty without a specific timeframe within which they can be assured that their financial position will not be disrupted, this Department concludes that ZATCA's action in making these amendments after the prescribed period has expired is invalid. Consequently, this Department decides to accept the Zakat payer's appeal and overturn the Primary Department's Decision in this regard.

Regarding the dispute concerning this item for 2013, given that this Department requested Zakat payer to submit an analytical statement and a reconciliation from its records regarding the origination date of each amount due to sister companies and the date of payment of that amount, showing the balance that has completed one whole lunar year at the end of 2013, and since the Zakat payer has not provided this Department with any evidence to support its claim, and since the Department has not observed anything that would warrant further clarification or comment in light of what has been presented to it, this Department concludes that what has been presented has not affected the outcome of the Primary Department's Decision regarding this item. Therefore, the Department has decided to reject the appeal and uphold the Decision regarding this item.

Regarding Zakat payer's appeal concerning the item (trade account payable for the period from 2010 to 2013). Zakat payer's appeal centers on its objection to adding this item to Zakat base and it claims that this item has not completed one whole lunar year. However, ZATCA has maintained the correctness and validity of its procedure and requests to dismiss Zakat payer's appeal and uphold the primary Decision. Regarding the period from 2010 to 2012, having carefully considered the subject of the dispute, this Department found that ZATCA's assessment for this period was made after the prescribed period for making amendments to Zakat payer's declaration had expired. The law specifies a period of five years from the final deadline for Zakat payer to submit its zakat declaration for each year. Given that these rules are intended to ensure the stability of transactions and to prevent Zakat payers from experiencing uncertainty without a specific timeframe within which they can be assured that their financial position will not be disrupted, this Department concludes that ZATCA's action in making these amendments after the prescribed period

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has expired is invalid. Consequently, this Department decides to accept the Zakat payer's appeal and overturn the Primary Department's Decision in this regard.

Regarding the dispute concerning this item for 2013, given that this Department requested Zakat payer to submit an analytical statement and a reconciliation from its records regarding the origination date of each debt and the date of payment of that debt, showing the balance that has completed one whole lunar year at the end of 2013, and since the Zakat payer has not provided this Department with any evidence to support its claim, and since the Department has not observed anything that would warrant further clarification or comment in light of what has been presented to it, this Department concludes that what has been presented has not affected the outcome of the Primary Department's Decision regarding this item. Therefore, the Department has decided to reject the appeal and uphold the Decision regarding this item.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: In form, Accept the appeal filed by Zakat payer/ Company…, CR. NO. (…), TIN No (…), against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No (IZD-2020-174) issued in Case No. (Z-10002-2019) in connection with zakat assessment for the period from 2009 to 2013.

Second: On Merits:

1. Accept Zakat payer's appeal regarding the item (Imports for 2010 and 2011), and overturn the Decision issued by First Department for Determination of Income Tax Violations and Disputes in Dammam, according to the merits and Grounds stated herein.
2. With respect to the item (advance payments from customers for the period from 2010 to 2013):
   A. Accept Zakat payer's appeal regarding that Item for the period (2010-2012), and overturn the Decision issued by First Department for Determination of Income Tax Violations and Disputes in Dammam, according to the merits and Grounds stated herein.
   B. Dismiss Zakat payer's appeal regarding that Item for 2013, and uphold the Decision issued by First Department for Determination of Income Tax Violations and Disputes in Dammam, according to the merits and Grounds stated herein.
3. With respect to the item (creditor sister companies for the period from 2010 to 2013):
   A. Accept Zakat payer's appeal regarding that Item for the period (2010-2012), and overturn the Decision issued by First Department for Determination of Income Tax Violations and Disputes in Dammam, according to the merits and Grounds stated herein.
   B. Dismiss Zakat payer's appeal regarding that Item for 2013, and uphold the Decision issued by First Department for Determination of Income Tax Violations and Disputes in Dammam, according to the merits and Grounds stated herein.
4. With respect to the item (trade accounts payable for the period from 2010 to 2013):
   A. Accept Zakat payer's appeal regarding that Item for the period (2010-2012), and overturn the Decision issued by First Department for Determination of Income Tax Violations and Disputes in Dammam, according to the merits and Grounds stated herein.
   B. Dismiss Zakat payer's appeal regarding that Item for 2013, and uphold the Decision issued by First Department for Determination of Income Tax Violations and Disputes in Dammam, according to the merits and Grounds stated herein.

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

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Keywords

Zakat – Accounts - Land and buildings - Travel tickets - Depreciation of buildings for the assessment years - Zakat assessment - Withholding tax - Leaves

Abstract

Appellant's claim, against both (ZATCA/Zakat payer), seeks to cancel Primary Committee Decision No. (IZD-2020-18) regarding Zakat assessment for the years 2010 to 2015. Zakat payer's appeal pertains to the items (Land and Buildings), (Travel Tickets), (Building Depreciation), (Zakat Assessment), and (Withholding Tax). It was established by the committee that ZATCA's assessment was made after the statutory period for amending Zakat payer's declaration had expired, which is set at five years from the final due date for submitting Zakat declaration for the years 2010 and 2011. ZATCA's appeal concerning (Leaves) item is based on the argument that the leave balance is a provision contingent upon the employee taking their annual leave, indicating that these amounts are reserved regardless of whether they are labeled as provisions or accrued expenses. As a result, ZATCA's appeal is rejected, and Primary Committee's Decision is upheld, while Zakat payer's appeal is accepted, and Primary Committee's Decision is overturned.

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal filed on ../../... /...., corresponding to .. /.. /..., from /..... establishment ... and the appeal filed on.. /.. /... corresponding to ../.. /../.. By ZATCA against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2020-18), issued in case No. (Z-38-2018), regarding the zakat assessment for the years 2010 to 2015 AD, filed by the Appellant against ZATCA. The primary Decision stated the following:

First: In from:

Accept case of ..... Hotel, Commercial Register No. (…) in form.

Second: On Merits:

1. Reject Plaintiff's objection regarding the item "Land and buildings for the years 2010 to 2015"
2. Reject Plaintiff's objection on the item "Travel tickets for the years 2010 to 2015"
3. Cancel Defendant's Decision in regards of the item "leaves for the years 2010 to2015"
4. Reject Plaintiff's objection in the item "Depreciation of buildings for the years 2010 to 2015"
5. Cancel Defendant's Decision in the item “Owner’s current account for the year 2011"

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6. Annul Defendant's Decision in regards of the item "Settlement for the years 2010 to2015"
7. Reject, in form, Plaintiff's objection in the item "Zakat assessment for 2010" to be re-submitted after lapse of the statutory period “
8. Reject, in form, Plaintiff's objection regarding the item "withholding tax for the years from 2012 to 2015" to be re-submitted after lapse of the statutory period "

Dissatisfied with that Decision, both parties filed a statement of appeal summarized as follows:

As for Zakat Payer’s appeal against Primary Department’s Decision, Zakat Payer’s appeal involves: Regarding the item (dismiss, in form, Plaintiff's objection regarding Zakat for the year 2010 due to expiration of the statutory period for objection), Zakat payer claims that Ministerial Decision No. (340) pertains to the taxpayer and has been applied as the implementing regulations of the Tax law, which shall have been repealed or superseded by Royal Decree No. (M/1) dated 15/01/1425 AH and implementing regulations thereof. Therefore it shall not be used as a reference in Zakat cases. Ministerial Decision No. (32/961) dated 22/04/1418 AH authorized Zakat Committee at that time to consider the formal aspect for a Zakat payer if their objection was deemed acceptable on formal Grounds. Regarding the item (rejection of Plaintiff's objection concerning withholding tax due to expiration of the statutory objection period), Zakat payer claims that the tax has been paid, but they are requesting cancellation of the penalty imposed due to not exhausting all stages of litigation at the time of issuance. Concerning the item (Lands and Buildings for the years 2010 to 2015), Zakat payer claims that the hotel is a sole proprietorship owned by Mr. (...), and the land and buildings are registered under the name of the deceased father (...). The land and its structures were sold to his son, owner of the establishment, under a preliminary sale contract, and the land and buildings were recorded in owner’s current account, which was subjected to the Zakat base by ZATCA. At the same time, no rental value was accounted for, as stated in reasoning of the Decision. Regarding the item (Travel Tickets for assessment years), Zakat payer claims that travel tickets are considered an obligation under the contract with the employee, and it is also certain to occur and is known in amount, thus it shall not be considered a provision. Regarding the item (Depreciation of Buildings for assessment years), Zakat payer claims that they are insisting on deduction of the value of hotel land and buildings and then approval of the depreciation installment value. Accordingly, Zakat payer requests annulment of Primary Department’s Decision on the items under appeal for the reasons mentioned above.

Since this Decision was not accepted by ZATCA, ZATCA filed an appeal against the contested Decision by virtue of an appeal brief that included the following:

Regarding ZATCA's appeal on the item of (Leaves for the years 2010 to 2015), ZATCA clarifies that the leave balance is a provision that is added to the profits throughout the year and deducted when used. An employee can only claim leave pay if they take their annual leave, which requires the employer's approval. Therefore, the leave balance is contingent on the condition of the employee taking their annual leave, indicating that these amounts are reserved regardless of whether they are called provisions or accrued expenses. Additionally, the Department did not consider that these amounts were not deducted from company's account, nor did the Plaintiff provide evidence of their deduction for the years in question, according to paragraph (9) of Article (4) of Zakat Collection Regulations. Accordingly, the item does not fully meet the criteria and conditions specified in Article (5), paragraph (1/a, b) of Zakat Collection Regulations. Therefore, ZATCA maintains the validity and correctness of its action, requests affirmation of its action, and seeks to overturn Primary Department's Decision on the items subject to ZATCA's appeal for the aforementioned reasons.

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On Monday, 23/05/1443 AH, corresponding to 27/12/2021, the Department decided to hold an electronic hearing session for 10 days. During this period, ZATCA submitted a response memo addressing the Zakat payer's appeal. The memo summarized that ZATCA stands by the correctness and validity of its actions and reiterates its position as stated in the memo submitted to the Primary Department, referring to it to avoid repetition. ZATCA also noted that Zakat payer's arguments do not differ from previous submissions, which ZATCA had already responded to at the time. Furthermore, regarding the (Land and Buildings) item, ZATCA clarified that Primary Department's Decision aligns with the provisions of paragraph (18) of ZATCA's Circular No. (35/1) dated 02/03/1413 AH, Fatwa No. (22644) for the year 1424 AH, and paragraph (1) of Article (4) of Zakat Collection Regulations. Concerning the (Travel Tickets) item, Decision of the Primary Department was consistent with provisions of Paragraph (1) of Article (12) and Article (13) of the Labor Law and Paragraph (1) of Article (5) of Zakat Collection Regulations. Regarding the (Depreciation of Buildings for Assessment Years), the Decision was in accordance with provisions of Paragraph (1/g) of Article (7) of Zakat Collection Regulations and Paragraph (1) of Article (4) of the same regulations. As for (Zakat Assessment for the Year 2010) item, the Decision was consistent with provisions of Article (10) of Ministerial Decision No. (340) of 1370 AH. Regarding the (Withholding Tax) item, the Decision was also in line with the provisions of Article (10) of Ministerial Decision No. (340) of 1370 AH. ZATCA requests the Department to reject any new Documents not submitted during the examination and objection stages. Therefore, ZATCA maintains validity and correctness of its actions and requests dismissal of Zakat payer's appeal and affirmation of Primary Department's Decision regarding the items under Zakat payer's appeal for the aforementioned reasons. As stated by Zakat payer in the memorandum responding to ZATCA, it is summarized that salaries for leaves and travel tickets are considered necessary and required expenses according to Article (12) of the Income Tax Law, Article (9) of Implementing Regulations thereof, and Article (5) of the Implementing Regulations for Zakat collection. Zakat payer refers to the precedent regulations issued by the Appellate Committee under number (1430) of 1435 AH. Therefore, Zakat payer requests that the appeal be rejected and Primary Department's Decision regarding the items subject to appeal be upheld for the aforementioned reasons.

On Wednesday, 08/07/1443 AH, corresponding to 09/02/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

When reviewing Case Documents and Appeal Brief submitted by the Appellant Company and ZATCA, the Department was satisfied that conditions of appeal hearing have been fulfilled in form in accordance with conditions stipulated in relevant laws, regulations and Decisions. Therefore, both appeal requests were accepted in form because they were submitted by persons with legal capacity and within the legally prescribed period.

On merits, it has been established for the Department that ZATCA's assessment was made after the legally prescribed period for making adjustments to Zakat payer's declaration, which is set at five years from the final deadline for Zakat payer to submit their Zakat declaration for the years 2010 and 2011. These rules were established to ensure the stability of transactions and prevent zakat payers from being left in uncertainty without a specific time frame within which their financial position remains undisturbed. This has been confirmed in Zakat payer's objection against ZATCA. However, this does not imply Zakat payer's exemption from their religious obligation if they are indeed liable for it; rather, its

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impact pertains to a procedural matter concerning ZATCA's right to reopen assessments after expiration of the legally prescribed period. Consequently, the Department concludes that ZATCA's actions in making these adjustments are invalid, thereby establishing that ZATCA does not have the right to make assessments for the years 2010 and 2011, and the contents of Zakat payer's declaration regarding the components of their Zakat base for the items under appeal shall be accepted.

Regarding Zakat payer's appeal concerning the item (land and buildings for the years 2010 to 2015), Zakat payer's appeal is based on the fact that the land and buildings are registered in the name of the deceased father of establishment owner. The land and its buildings were sold to owner's son through a preliminary sales contract, and the land and buildings were recorded in owner's current account. Meanwhile, ZATCA argues that it maintains the validity and correctness of its procedure and requests rejection of Zakat payer's appeal and affirmation of Primary Department's Decision. Since the Department decided to accept Zakat payer's declaration for the items under appeal for the years 2010 and 2011, this implies that Zakat payer's appeal regarding these items for 2010 and 2011 shall be accepted. As for the years 2012 to 2015, upon reviewing the dispute, the Department finds that land financing is included in the base as part of the deductible items. Therefore, if the deduction for land and buildings is not accepted, the corresponding financing shall be excluded from the base to maintain budget balance. This has not been followed by ZATCA. Consequently, the Department decides to accept Zakat payer's appeal and overturn Primary Department's Decision regarding this matter.

Regarding Zakat payer's appeal concerning the item (travel tickets for assessment years 2010 to 2015), Zakat payer's appeal is based on the argument that travel tickets represent a confirmed and known obligation, not a provision. Meanwhile, ZATCA maintains validity and correctness of its procedure and requests rejection of ZAKAT payer's appeal and affirmation of Primary Department's Decision. Since Department decided to accept Zakat payer's declaration for the items under appeal for the years 2010 and 2011, this implies that Zakat payer's appeal regarding this item for 2010 and 2011 shall be accepted. As for the years 2012 to 2015, the amounts in dispute do not fit the accounting definition of provisions, which are liabilities of the establishment with uncertain amount or timing of payment, or both. Regarding the disputed amounts, these actually represent ordinary and necessary expenses related to the activity. Zakat payer is entitled to deduct these expenses from their profit to determine the profit subject to Zakat. These deduction expenses are considered legitimate and shall not be returned to the net profit. Therefore, this Department has decided to accept Zakat payer's appeal and overturn Primary department's Decision on this item.

Regarding Zakat payer's appeal concerning the item (depreciation of buildings for assessment years), Zakat payer's appeal is based on their request to deduct value of the hotel land and buildings, and then calculate the depreciation expense based on that. Meanwhile, ZATCA maintains the validity and correctness of its procedure and requests rejection of Zakat payer's appeal and affirmation of Primary Department's Decision. Since Department decided to accept Zakat payer's declaration for the items under appeal for the years 2010 and 2011, this implies that Zakat payer's appeal regarding this item for 2010 and 2011 shall be accepted. As for the years from 2012 to 2015, and where the Department accepted Zakat payer's appeal regarding deduction of land and buildings from his base, which entails Zakat payer's entitlement to deduct the depreciation expense of buildings to reach the profit subject to zakat. Accordingly, this Department concluded to accept Zakat payer's appeal and cancel Primary Department's Decision in its conclusion regarding this item.

Regarding Zakat payer's appeal concerning the item (Zakat assessment for 2010), Zakat payer's appeal is based on their objection to Primary Department's reliance on the

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ministerial Decision related to tax in the context of a Zakat objection. Meanwhile, ZATCA maintains the validity and correctness of its procedure and requests rejection of Zakat payer's appeal and affirmation of Primary Department's Decision. Since Department decided to accept Zakat payer's declaration for the items under appeal for the years 2010 and 2011, this implies that Zakat payer's appeal regarding Zakat assessment for 2010 is accepted. Consequently, Zakat assessment for that year by ZATCA is to be annulled, and Zakat payer's Zakat declaration shall be upheld.

Regarding Zakat payer's appeal concerning the item (withholding tax), Zakat payer's appeal is based on their request to cancel the fine imposed on the withholding tax due to failure to exhaust all stages of litigation at the time of issuance. Meanwhile, ZATCA maintains the validity and correctness of its procedure and requests rejection of Zakat payer's appeal and affirmation of Primary Department's Decision. Upon reviewing the dispute, it was found that the appeal concerns company's request to consider its objection to the items in question before ZATCA, after the Department issued a Decision rejecting the objection on procedural Grounds, as the objection was submitted after the statutory deadline. It was established that Zakat payer submitted their primary objection to ZATCA within the statutory period. ZATCA did not provide evidence that could justify disregarding Zakat payer's timely objection. Therefore, this Department concludes that Primary Department's Decision shall be overturned, and the case shall be referred back to the Department for consideration of objection on its merits.

Regarding ZATCA's appeal concerning the item (Leaves for the years 2010 to 2015), ZATCA's appeal argues that leave balance is classified as a provision contingent upon the employee taking their annual leave. This implies that these amounts are reserved regardless of whether they are labeled as provisions or accrued expenses. Meanwhile, Zakat payer requests rejection of ZATCA's appeal and affirmation of Primary Department's Decision regarding the item under ZATCA's appeal. Since the Department decided to accept Zakat payer's declaration for the items under appeal for the years 2010 and 2011, this implies that ZATCA's appeal regarding this item for 2010 and 2011 is rejected. As for the years 2012 to 2015, the amounts in dispute do not fit the accounting definition of provisions, which represent liabilities with uncertain amounts or timing of payment, or both. The disputed amounts actually represent ordinary and necessary expenses for Zakat payer's activity. Zakat payer is entitled to deduct these expenses from their profit to determine the profit subject to Zakat. These expenses are deductible and shall not be returned to the net profit. Consequently, this Department concludes to reject ZATCA's appeal and uphold Primary Department's Decision regarding this item.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept, in form, appeal from Zakat payer/..... company, Commercial Register No. (.....), TIN (.....), and the appeal submitted by ZATCA, against Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, No. (IFR-2020-18), issued in case number (Z-38-2018), related to zakat assessment for the years 2010 to 2015.

Second: On Merits:

1. Accept Zakat payer's appeal regarding the item (land and buildings for the years 2010 to 2015) and overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the reasons and considerations outlined in this Decision.
2. Accept Zakat payer's appeal regarding the item (travel tickets for assessment years 2010 to 2015) and overturn Decision of the First Department for Determination of

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Income Tax Violations and Disputes in Dammam, in accordance with the reasons and considerations outlined in this Decision.

3. Accept Zakat payer's appeal regarding the item (depreciation of buildings for the assessment years) and overturn Decision of First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the reasons and considerations outlined in this Decision.
4. Accept Zakat payer's appeal regarding the item (Zakat assessment for 2010) and overturn Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, cancel ZATCA's assessment, and accept Zakat payer's declaration for that year, in accordance with the reasons and considerations outlined in this Decision.
5. Accept Zakat payer's appeal regarding the item (withholding tax), cancel Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, and refer the case back to the Department for consideration of this item on merits, in accordance with the reasons and considerations outlined in this Decision.
6. Reject ZATCAs appeal regarding the item (leaves for the years 2010 to 2015) and uphold Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the reasons and considerations outlined in this Decision.

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Keywords
Zakat – Accounts - Reassessment according to the financial statements approved by an unauthorized person – Affirmation of Primary Committee's Decision

Abstract

The Appellant (Zakat Payer) seeks to cancel Primary Committee's Decision No. (IZJ-2020-89), regarding zakat assessment for the years from 1434 AH to 1436 AH. Zakat Payer's appeal is based on objecting to the procedure followed by ZATCA in reassessing Zakat based on financial statements approved by an unauthorized person. Zakat Payer failed to prove before this committee inaccuracy of the contents of those financial statements from a competent authority supporting the alleged forgery, and Zakat Payer did not contest those statements until after ZATCA's assessment Decision, which is an indication of the invalidity of Zakat Payer's claim. Therefore, the Department dismisses the appeal and upholds Primary Department's Decision.

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal submitted on .../.../...., corresponding to .../.../..., by/....., National ID No. (...), in its capacity as owner of the Appellant establishment against Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, under No. (IZJ-2020-89), issued in case No. (Z-7798-2019), related to zakat and tax assessment for the years 1434 AH to 1436 AH, in the case filed by the Appellant against ZATCA, Primary Department's Decision was as follows:

First: In from:

Accepting the objection of Plaintiff (....Establishment) with Commercial Register No.: (....) in form.

Second: On Merits:

Reject the objection of Plaintiff (..... Establishment) to the estimated zakat assessment for the years from 1434 AH to 1436 AH

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision under appeal, claiming that the financial statements, on which ZATCA based its reassessment, were prepared without his knowledge, approval, or signature. Instead, they were approved and provided to the accounting office by a person who was unauthorized to sign and did not have a signature endorsement at the Chamber of Commerce. The person who signed acted in bad faith and

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took advantage of Zakat Payer's health condition. Therefore, Zakat Payer requests annulment of Primary Department's Decision under appeal for the aforementioned reasons.

On … dated../../.. AH Corresponding to ../../…, the Department decided to hold an electronic pleading session for a period of (10) days, during which a response memo from ZATCA was submitted to address Zakat Payer's appeal, summarized as follows: It reaffirms its position presented before the Primary Department and bases its actions on Paragraph (5/a) of Article (13) of the Implementing Regulations for Zakat Collection issued in 1438 AH, and Paragraph (8/c) of Article (21) of the same Regulations. The points raised by Zakat Payer do not depart from what has been previously submitted, and ZATCA has already responded to them accordingly. ZATCA requests that no new requests from Zakat Payer be accepted, based on Article (186) of the Law of Civil Procedures. Therefore, ZATCA insists on the validity and soundness of its actions and requests rejection of Zakat Payer's appeal and upholding of Primary Committee's Decision for the reasons mentioned above.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, the taxpayer's appeal is based on objecting to ZATCA's action of reassessment using financial statements certified by an unauthorized person. In response, ZATCA maintains that its action was valid and sound and requests dismissal of Zakat Payer's appeal and upholding of Primary Department's Decision. Upon considering the dispute and examining Documents in the case file, this Department finds that the conclusion reached by the Primary Department in the Decision under appeal is correct, and the reasons on which it based its Decision are sufficient to support this conclusion. Zakat Payer's Grounds for challenging the information relied upon in the financial statements do not undermine this, as Zakat Payer has not proven to this Department the inaccuracy of those financial statements by any competent authority confirming the alleged forgery. Additionally, Zakat Payer did not contest these statements until after ZATCA's reassessment Decision, which serves as evidence against the validity of Zakat Payer's claim. As for what Zakat Payer submitted regarding being informed of the Decision of the Committee for investigation on violations of CPAs, it pertains to the work of the certified accountant when reviewing the financial statements and does not relate to whether those financial statements were forged by those who prepared them. The committee mentioned does not have jurisdiction over criminal cases related to forgery. Therefore, this Department concludes that Zakat Payer's appeal shall be dismissed and the result reached by Primary Department's Decision shall be upheld.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form by the Zakat Payer/ ... Est, CR No. (...), TIN No. (...) against the Decision of the First Department for Determination of Income Tax Violations

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and Disputes in Jeddah No. (IZJ-2020-89), issued in case number (Z-7798-2019), related to zakat assessment for the years 1434 AH to 1436 AH.

Second: On Merits: Accept Zakat Payer's appeal and overturn Decision of First Department for the Determination of Income Tax Violations and Disputes in Jaddah, according to reasons and Grounds set forth in this Decision.

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

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Decision No. IR-2022-95
Case No. Z-26937-2020

Keywords
Zakat – Accounts - Addition of trade payables to Zakat base - Completion of the lunar year

Abstract

The Appellant (the taxpayer) is requestingcancellation of Decision No. (IZJ-2020-83) concerning Zakat assessment for the year 1437 AH. Zakat Payer's appeal is based on an objection to the duplication in Zakat resulting from addition of trade payables to the Zakat base. Upon reviewing Zakat Payer's appeal and examining Documents in the case file, the Department finds no dispute regarding the completion of a full lunar year on the amount in question. Additionally, the Department did not observe any Grounds for correction or further commentary based on the information presented. Therefore, this Department confirms validity of the conclusion reached by the Primary Department in the Decision under appeal. Therefore, the Department dismisses the appeal and upholds Primary Department's Decision.

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the Appeal submitted on …/…/…, corresponding to …/…/…, by/ … (National ID No. (...), in his capacity as representative of the Appellant establishment (by virtue of Power of Attorney No. (...)), against Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah Governorate, Decision No. (IZJ-2020-83), issued in Case No. (Z-4744-2019), regarding Zakat assessment for the year 1437 AH, filed by the Appellant against ZATCA, regarding which the Primary Department ruled as follows:

First: In form:

Accept the Case filed by Plaintiff (.... Institution), C.R No.: (....) in form.

Second: On Merits:

1- Reject objection of the Plaintiff (..... Establishment) to add the item of long-term trade receivables to Zakat base for the year 1437AH.

Whereas this Decision was not accepted by Zakat Payer (... Establishment), it was submitted to the Department with an appeal list that included the following summary:

If Zakat Payer objects to Primary Department's Decision under appeal, he claims that regarding the item of "long-term commercial receivables," it is incorrect to consider duplication of zakat for the same amount of the same Zakat Payer in the same year. Additionally, the balance of long-term commercial receivables is an amount due to a subsidiary company of Zakat Payer, in which he owns (59.09%) of its capital. Therefore,

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the rules applicable to holding companies shall apply. Consequently, Zakat Payer requests annulment of Primary Department's for the reasons stated.
On … dated../../.. AH Corresponding to ../../…, the Department decided to hold an electronic pleading session for a period of (10) days, where Zakat Payer submitted a number of Documents.
On ....., dated... /.. /...., corresponding to... /.. /…, Whereas the General Secretariat directed this Department to inform Zakat Payer of Primary Department's Decision dated... /.. /…, and submit it for appeal on.. /.. /…, the Department requested that Zakat Payer provide the date on which he was notified of Primary Department's Decision and the date he submitted the appeal to this Department, along with evidence to support this, within seven days from the date of request. Accordingly, Zakat Payer submitted a number of Documents.
On ....., dated... /.. /...., corresponding to... /.. /…, and after reviewing appeal memoranda and examining case file Documents and evidence, the Department has determined that the case is ready for resolution and a Decision on merits. Therefore, the Department decided to close the hearing and reserve the case for judgment.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.
On merits, as Zakat Payer's appeal concerns objection to including commercial receivables in zakat base, the Department, after considering Zakat Payer's appeal and examining case file, found no dispute about the completion of a full lunar year on the amount in question. Funding sources are added to zakat base if they have passed a lunar year or if they have financed assets deducted from the base. The Department did not observe anything that would necessitate correction or commentary based on what was presented. It has become clear to the Department that the result reached by the Appeals Department is accurate, and the reasons provided in their Decision are sufficient to uphold it. Consequently, this Department concludes by rejecting Zakat Payer's appeal and affirming the result reached by the Primary Department concerning Zakat Payer's objection.
In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer/ ..... institution, under CR. No. (.....), TIN No. (.....), against the First Department for Determination of Income Tax Violations and Disputes in Jeddah Decision No. (IZJ-2020-83) delivered in Case No. (Z-4744-2019) regarding zakat assessment of 1437 AH.
Second: On Merits: Accept Zakat Payer's appeal and overturn Decision of First Department for the Determination of Income Tax Violations and Disputes in Jaddah, according to reasons and Grounds set forth in this Decision.
May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.

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Keywords
Zakat – Accounts - Contract Profits - Purchase Orders

Abstract

The Appellant (Zakat Payer) requests annulment of Primary Department's Decision No. (7IFR-2020-14) regarding zakat assessment for the years 2008 to 2012 AD. Zakat Payer's appeal concerns objection to including duplication of zakat resulting from addition of the differences related to the (contract profits) item for the years 2011 and 2012 AD in zakat base. Upon reviewing the dispute and examining case file, the Department noted that Zakat Payer stated in the Appeal that the amount in question for 2011 was previously declared in a single line on the contract statement submitted for that year, along with the completed business revenues. Therefore, the Department accepts Zakat Payer's appeal and overturns Primary Department's Decision.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal filed on ../../... /... corresponding to ../.. /... by ..., with National ID No. (...) acting as representative of the Appellant Company, under Power of Attorney No. (...), challenges Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, Decision No. (IFR-2020-147) issued in Case No. (Z-1196-2019) related to zakat assessment for the years 2008 to 2012, filed by the Appellant against ZATCA. Primary Department's Decision in this matter was as follows:

First: Reject objection of the Plaintiff, ... Company, (TIN ...), against Decision of the Defendant/ ZATCA, concerning zakat liabilities and credit balances for the 2008 zakat assessment.

Second: Reject objection of the Plaintiff/ .... Company (TIN…) to the Decision of Defendant/ZATCA related to the profits of contracts for zakat assessment for the years 2011 and 2012 AD.

Third: Cancel Decision of the Defendant/ZATCA against the Plaintiff/ ..... Company (TIN…) related to the profits of contracts for zakat assessment for the year 2009 AD.

Fourth: Reject objection of the Plaintiff, ... Company, (TIN ...), against Decision of the Defendant/ ZATCA, concerning the provisions made for zakat assessment for the year 2011 AD.

Fifth: Cancel Decision of the Defendant/ZATCA against Plaintiff/ .... Company … (TIN …) related to the profits of imports of Zakat assessment for the year 2009, and reject objection of the Plaintiff/ ... Company (TIN …) to Decision of the Defendant/ZATCA related to the profits of imports of Zakat assessment for the year 2011 AD.

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Sixth: Reject objection of the Plaintiff/ .... Company (TIN…) to the Decision of Defendant/ZATCA related to zakat settlements for the year 2012 AD.
Seventh: Cancel Decision of the Defendant/ZATCA against the Plaintiff/ ..... Company (TIN…), concerning non-deduction of management percentage from the retained earnings added to zakat base for the year 2011 AD.
Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:
Zakat Payer objects to Primary Department's Decision under appeal, claiming that regarding the contract profits, he has submitted the supporting Documents for that item. He also previously declared Purchase Order No. (77016), which is the subject of the difference for the year 2011 AD, in the contract statement submitted to ZATCA in 2011, in a single line along with the revenues of the completed works for Purchase Order No. (77750), as they are both related to a single contract for the same service. Additionally, the completed works for Purchase Order No. (77750), which is the subject of the difference for the year 2012, were declared in the contract statement for the year 2012 according to the completed works. The failure to deduct this item would lead to the prohibited duplication of zakat. Moreover, ZATCA mistakenly relied on a report of purchase orders of unknown origin to Zakat Payer and did not provide him with a copy. Therefore, Zakat Payer requests annulment of Primary Department's Decision for the aforementioned reasons.
On Wednesday, 07/03/1443 AH, corresponding to 13/10/2021 AD, the Department decided to hold an electronic hearing session for a period of ten (10) days. In response, ZATCA submitted a memorandum addressing Zakat Payer's appeal, affirming validity of Primary Department's Decision under appeal, as it aligns with provisions of Paragraph (3) of Article (20) of Zakat Collection Regulations. ZATCA also reaffirms its position previously presented to the Primary Department regarding the items under appeal. Furthermore, ZATCA states that Zakat Payer's claims do not differ from those previously submitted, which ZATCA had addressed at the time. ZATCA requests that no new requests from Zakat Payer, which were not presented before the Primary Department, be accepted, based on provisions of Article (186) of the Law of Civil Procedures. Therefore, ZATCA insists on the correctness and soundness of its procedures and requests rejection of Zakat Payer's appeal and affirmation of Primary Department's Decision for the reasons stated above.
On Thursday, 03/06/1443 AH corresponding to 06/01/2022 AD, having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.
On merits, after the Department reviewed case file, it was found that Zakat Payer's appeal is based on an objection to the duplication of zakat resulting from inclusion of differences related to the (contract profits) item for the years 2011 and 2012. Meanwhile, ZATCA argued that it maintains the correctness and validity of its procedures and requests rejection of Zakat Payer's appeal and upholding of Primary Department's Decision. Upon considering subject of the dispute and reviewing case file, the Department noted that Zakat Payer, in their appeal, claimed that the disputed amount for the year 2011 (Purchase

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Order No. ...) had already been declared in the contract statement submitted for that year, in a single line along with the revenues of the completed works for Purchase Order No. (...), as both are related to a single contract for the same service. Zakat Payer also stated that the completed works for Purchase Order No. (...) which is the subject of the difference for 2012, were declared in the contract statement for the year 2012.Additionally, Zakat Payer asserted that the total amount disclosed and the zakat paid on the mentioned purchase orders for the two years in dispute amounted to (37,818,098), which is higher than the total amount according to ZATCA's assessment. Zakat Payer further pointed out that ZATCA did not disclose the source of its information or provide Zakat Payer with a copy of the purchase order it relied on, nor did it consider Zakat Payer's contracts, their amendments, or what was executed or canceled. Moreover, ZATCA did not provide a detailed response to all of Zakat Payer's defenses, either before the Primary Department or in its response to Zakat Payer's appeal, and it did not present any evidence that could justify deviating from Zakat Payer's declaration. In zakat matters, the default is to accept Zakat Payer's statement unless there is evidence to the contrary. Therefore, this Department concludes that ZATCA's procedure was incorrect and invalid, and it decides to accept Zakat Payer's appeal and overturn Primary Department's Decision on this matter.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accepted, in form, the Appeal submitted by Zakat Payer, ... Company, (Commercial Register ...), TIN (...), against Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, Decision No. (IFR-2020-147), issued in Case No. (Z-1196-2019) related to zakat assessment for the years 2008 to 2012.

Second: On merits, Zakat payer's appeal is accepted, and Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh is overturned, in accordance with the reasons and Grounds stated in this Decision.

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

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-50
Case No. Z-31217-2020

Keywords
Zakat – Accounts – Non-application of the Decision to the assessment period – Retroactive effect for the assessment year – Case reopening

Abstract

The Appellant (Zakat Payer) is requesting the cancellation of the Decision issued by the Primary Department under No. (IFR-2020-152) regarding Zakat assessment for the year 1440 AH. Zakat Payer's appeal is based on objecting to ZATCA's application of the rules for determining the estimated Zakat for Zakat Payers with retroactive effect for the assessment year in question. Upon review of Zakat Payer's Appeal and Primary Department's Decision, it was found that Zakat Payer did not attend the hearing. Additionally, the Decision under appeal does not indicate that Zakat Payer was given the opportunity to present their objections. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider appeal filed on ../../... corresponding to ../../... by ..., holder of National ID No. (...), in his capacity as Owner of Appellant Enterprise, against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (IFR-2020-152) rendered in Case No. (Z-13335-2020) regarding zakat assessment for 1440 AH filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the case filed by Plaintiff/...., (TIN...), against the Defendant/ ZATCA, due to the failure to file a grievance with the Primary Committee regarding the Defendant's Decision within the statutory time limit.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision under appeal, claiming that the Zakat assessment Decision being contested shall not be subject to the Rules for Calculating Zakat for Estimate Taxpayers. Zakat Payer argues that the ministerial Decision, in Clause "Thirdly," specifies that these rules apply to the declarations of estimated Zakat Payers submitted after 31/12/2019 AD, in accordance with Clause "Thirdly" of the Minister of Finance's Decision, Chairman of the Board of Directors of ZATCA, No. (2216) dated 07/07/1440 AH. Therefore, the period for which the estimated assessment was made by ZATCA, from 01/02/1440 AH to 30/01/1441 AH, means that the Decision does not apply to the assessment period under dispute. Furthermore, rejection of the objection on procedural Grounds does not preclude its referral to the Primary

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Committee based on Paragraph (5) of Article (22) of the Zakat Collection Regulations for the year 1438 AH. Consequently, Zakat Payer requests annulment of Primary Department's Decision under appeal for the reasons stated above.

The Department decided to reopen the case, and in response, ZATCA submitted a memorandum dated 10/07/1442 AH (corresponding to 21/02/2021), addressing Zakat Payer's appeal. In this memorandum, ZATCA reaffirms its position presented before the Primary Department. Royal Decree No. (2604) dated 21/04/1441 AH stipulates in its second clause that "the rules governing Tax Dispute and Violation Committee Procedures shall apply to all taxpayer objections regarding tax assessments submitted to ZATCA, for which a final settlement had not been reached therewith before these rules took effect." Additionally, the third clause of the same Royal Decree states that "the Departments for determinations and appealing of income tax disputes shall be responsible for hearing objections submitted by concerned parties against Decisions issued by ZATCA regarding Zakat assessments, in accordance with the rules governing operation of the committees for determination of tax disputes and violations". Furthermore, according to Paragraph (2) of Article (3) of Tax Dispute and Violation Committee Procedures, and given that more than thirty days have passed between the date of objection's rejection and the date the case was filed, the statutory period for accepting the objection has expired, rendering the contested Decision immune to appeal. Therefore, ZATCA insists on the validity and soundness of its procedures and requests dismissal of Zakat Payer's appeal and upholding of Primary Department's Decision for the reasons stated above.

On ....., dated... /.. /...., corresponding to... /.. /..., the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat Payer's appeal is based on objecting to ZATCA's application of the Rules for Calculating Zakat for Estimate Taxpayers with retroactive effect for the assessment year in question. Meanwhile, ZATCA has requested dismissal of Zakat Payer's appeal and upholding of the Primary Department's Decision. Upon reviewing the subject of Zakat Payer's appeal and examining Primary Department's Decision, it was found that Zakat Payer did not attend the hearing. Additionally, the contested Decision does not indicate that Zakat Payer was given the opportunity to present his case regarding his objection. This suggests that the case was not ready for resolution due to Zakat Payer's absence from the hearing before the Primary Department or the failure to submit a written objection in response to ZATCA's arguments raised before the Department. Therefore, the Department concludes that Primary Department's Decision shall be annulled and the case should be returned to the Department for reconsideration after ensuring that Zakat Payer is able to attend the hearing before the Primary Department.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

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Decision

First: Accept, in form, the Appeal submitted by Zakat Payer, ... Establishment, with Commercial Register No. (…), and TIN (…), against Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, under No. (IFR-2020-152), issued regarding Case No. (Z-13335-2020), related to Zakat assessment for the year 1440 AH.

Second: On Merits:

Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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

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Decision No. IR-2022-40
Case No. Z-36524-2021

Keywords
Zakat – accounts - material errors in the assessment - return the case

Abstract

The Appellant (Zakat Payer) is requesting cancellation of Primary Department's Decision No. (ITR-2020-7) concerning Zakat assessment for the year 2016. Zakat Payer's appeal is based on the claim that Primary Department's Decision neglected the material errors in ZATCA's assessment and only considered the case on procedural Grounds. Upon reviewing the matter and examining Primary Department's Decision, it was found that Zakat Payer did not attend the hearing. Furthermore, the contested Decision does not show that Zakat Payer was given an opportunity to address the procedural objection raised by ZATCA, indicating that the case was not ready for resolution due to Zakat Payer's absence from the hearing before the Primary Department. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider appeal filed on ../../.. corresponding to ../../... by ..., holder of National ID No. (...), in his capacity as the legal representative of Appellant Company, under its memorandum of association, against Third Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No. (ITR-2020-7) rendered in Case No. (Z-13482-2020) regarding zakat assessment for 2016 filed by Appellant against ZATCA. Primary Department's Decision states:

Dismiss the objection filed by Plaintiff/..... Establishment, Commercial Register No.(…), on procedural Grounds due to expiration of the statutory period.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

Zakat Payer objects to the Decision Review Department's ruling under appeal, claiming that ZATCA requested the Department to dismiss the case on procedural Grounds, and the Department upheld ZATCA's request without considering the material errors in ZATCA's assessment. The company contests the unfair Primary Department's Decision ruling in favor of ZATCA by dismissing the grievance on procedural Grounds, arguing that the objection was filed before the Primary Committees within the legally prescribed 30-day period. Additionally, the non-disputed amounts were paid, along with 10% of the disputed amounts, in accordance with the Zakat Collection Regulations. Zakat Payer

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requests that the substance of the case be reviewed and, therefore, demands annulment of Primary Department's Decision under appeal for the reasons stated above.

On ....., dated... /../… Corresponding to ../../.., the Department decided to hold an electronic hearing for a period of 10 days. ZATCA submitted a memorandum in response to Zakat Payer's appeal, reaffirming its position presented before the Primary Department. ZATCA also confirmed the validity of Department's Decision, stating that it aligns with the provisions of Article (2) of the Tax Dispute and Violation Committee Procedures. Additionally, ZATCA noted that Zakat Payer's arguments are consistent with those previously submitted, to which ZATCA had already responded. ZATCA requested that the Department not accept any new requests from Zakat Payer, based on Article (186) of the Law of Civil Procedures. Therefore, ZATCA insists on the correctness and validity of its actions and requests dismissal of Zakat Payer's appeal and upholding of Primary Department's Decision for the aforementioned reasons.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Ground

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat Payer's appeal is based on the claim that Primary Department's Decision overlooked the material errors in ZATCA's assessment and only considered the case on procedural Grounds. Meanwhile, ZATCA has requested dismissal of Zakat Payer's appeal and upholding of Primary Department's Decision. Upon reviewing the subject matter of dispute and examining Primary Department's Decision, it was found that Zakat Payer did not attend the hearing. Additionally, the contested Decision does not indicate that Zakat Payer was given an opportunity to present his case regarding the procedural objections raised by ZATCA. This suggests that the case was not ready for resolution due to Zakat Payer's absence from the hearing before the Primary Department or the failure to submit a written objection in response to ZATCA's arguments. To ensure Zakat Payer's right to a two-tiered litigation process, this Department concludes that Primary Department's Decision shall be annulled and the case shall be returned to the Department for substantive review.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept, in form, the Appeal submitted by Zakat Payer, ... Company, (Commercial Register ...), TIN (...), against the Decision of the Third Department for Determination of Income Tax Violations and Disputes in Riyadh, Decision number (ITR-2020-7), issued regarding case number (Z-13482-2020), concerning Zakat assessment for the year 2016.

Second: On Merits:

Annul Decision of the Third Department for return the case to the Department for substantive review, in accordance with the reasons and considerations outlined in this Decision.

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Keywords
Zakat – Accounts – Failure to report in the regular form - Return the case

Abstract

The Appellant (Zakat Payer) requests annulment of Primary Department's Decision No. (Z-2020-212) concerning Zakat assessment for the year 1431 AH. After reviewing the case file, it appears to the Department that Zakat Payer's appeal is based on the claim that the contested Decision failed to verify the proper receipt of ZATCA's assessment notice in accordance with the regulations. The contested Decision concluded that the case was inadmissible due to being filed after the statutory deadline, based on the dates mentioned in its reasoning, which differ from the dates confirmed by ZATCA. The Decision did not provide reasons for disregarding the dates presented by ZATCA. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider appeal filed on ../../... corresponding to …/./... by ..., with National ID No. (...) acting as representative of the Appellant Company, under Power of Attorney No. (...), challenges Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, Decision No. (Z-2020-212) issued in Case No. (Z-2020-11882) related to zakat assessment for the year 1431 AH, filed by the Appellant against ZATCA. Primary Department's Decision in this matter was as follows:

Reject case of Plaintiff / …from a formal point of view; due to lapse of the statutory period of objection.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision under appeal, claiming that the Decision failed to verify correctness of the procedures followed by ZATCA. Zakat Payer also asserts that they were not properly notified of the Decision in a manner that would produce legal effects, as outlined in Paragraph (1) of Article (22) of Zakat Collection Regulations. Zakat Payer argues that there is no evidence of proper notification, pointing out that ZATCA mentioned the assessment was made on 05/07/1440 AH but did not state that they notified Zakat Payer of this assessment. Furthermore, Zakat Payer states that at the time the assessment was issued, they were outside the Kingdom for medical treatment and did not receive any notification of the assessment. They have provided a medical report to support this claim. Additionally, Zakat Payer asserts that the errors in the assessment and the overestimation of Zakat pertain to real estate deeds that do not actually

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belong to them. These deeds are registered in their name only superficially, while in reality, they belong to other key partners. The deeds were transferred to Zakat Payer's name merely to facilitate brokerage and intermediary operations. Zakat Payer also claims that ZATCA failed to deduct the amounts paid to charitable institutions registered with the state, for which Zakat Payer has documentation. For these reasons, Zakat Payer requests annulment of Primary Department's Decision.

On Sunday, 29/05/1443 AH, corresponding to 02/01/2022 AD, the Department decided to hold an electronic hearing for a period of 10 days. ZATCA submitted a memorandum in response to Zakat Payer's appeal, asserting the validity and correctness of its procedures. ZATCA noted that Zakat Payer's objections are consistent with previous arguments that ZATCA has already addressed. ZATCA further explained that, based on Paragraph (1) of Article (22) of Zakat Collection Regulations for the year 1438 AH, and Paragraph (4/A) of the same Article, as well as Article (2) of Tax Dispute and Violation Committee Procedures, the difference in days between the assessment date and the objection date exceeds sixty days. Consequently, since the statutory period for accepting the objection has elapsed, the contested Decision has become immune to appeal due to expiration of the allowed time frame. ZATCA requested that the Department not accept any new requests from Zakat Payer based on Article (186) of the Law of Civil Procedures. Therefore, ZATCA insists on the validity and soundness of its actions and requests dismissal of Zakat Payer's appeal and upholding Primary Department's Decision for the reasons stated above.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, after reviewing the case file, it appears to the Department that Zakat Payer's appeal is based on the claim that the contested Decision failed to verify the proper receipt of ZATCA's assessment notice in accordance with the Regulations. Meanwhile, ZATCA argues that its procedures were correct and sound, and it requests dismissal of Zakat Payer's appeal and upholding Primary Department's Decision. After reviewing Primary Department's Decision, it was noted that ZATCA argued before the Department, according to the Facts established in the contested Decision, that Zakat Payer was notified of the assessment on 05/07/1440 AH, while Zakat Payer submitted their objection to the assessment before ZATCA on 24/12/1440 AH. However, the Department, in its reasoning, stated that Zakat Payer was notified on 06/09/1440 AH and submitted their objection to ZATCA on 08/07/1441 AH. This discrepancy formed the basis for Primary Department's Decision to dismiss Zakat Payer's objection on procedural Grounds, concluding that the objection was submitted after the statutory deadline. The contested Decision concluded that the case was inadmissible on procedural Grounds because it was filed after the statutory deadline, based on the dates mentioned in Decision's reasoning, which differ from the dates confirmed by ZATCA. The Decision did not provide reasons for disregarding the dates presented by ZATCA, nor did it include justification for the dates the Department relied on in its ruling, which ultimately led to dismissal of Zakat Payer's objection on procedural Grounds. Thereupon, this Department found that the Decision

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subject matter of appeal relied on Facts that contradict the dates acknowledged by ZATCA regarding Zakat Payer's objection filing dates without elaboration reasons for this discrepancy. Thereupon, this Department found that the Decision subject matter of appeal is not consistent with the Facts established before this Department. This indicates that the dispute has not been fully resolved on its merits as concluded by Primary Department, and thus the Department has not exhausted its jurisdiction in adjudicating subject matter of dispute. Therefore, this Department overturns the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remands the Case for reconsideration on merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No (Z-2020-212) rendered in Case No. (Z-2020-11882) regarding tax assessment for 1431 AH.

Second: On Merits:

Accept Zakat Payer's appeal, overturn Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.

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Decision No. IR-2022-149
Case No. Z-30529-2020

Keywords
Zakat - estimate - wasting his regular accounts - assessment according to the financial statements - return the case

Abstract

The Appellant (Zakat Payer) is requesting annulment of Primary Department's Decision No. (IZJ-2020-129) regarding the Zakat assessment for the years 1434 AH and 1435 AH. Zakat Payer's appeal is based on the claim that Primary Department's Decision neglected the reasons for his objection, which centered on disregarding his statutory accounts and assessing Zakat based on an estimated method. The Department found that Zakat Payer is seeking to have the assessment based on the financial statements he submitted to ZATCA, which is sufficient Grounds for objecting to ZATCA's assessment without the need to specify and repeat this for each item in dispute. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the Appeal submitted on .../.../...., corresponding to .../.../..., by/....., National ID No. (...), in its capacity as owner of the Appellant establishment against Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, under No. (IZJ-2020-129), issued in Case No. (Z-4972-2019), related to zakat and tax assessment for the years 1434 AH to 1436 AH, in the case filed by the Appellant against ZATCA, Primary Department's Decision was as follows:

Dismiss the case filed by Plaintiff/ ..... Establishment, under Commercial Register No. (…), on procedural Grounds due to the lack of substantiation for Zakat objection items for the years 1434 AH and 1435 AH.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision under appeal, claiming that the regulation on which the Department based its Decision has been repealed by the provisions of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2216) dated 07/07/1440 AH. The latter Regulation does not stipulate that an objection must be substantiated, nor does it condition the acceptance of an objection on procedural Grounds upon it being substantiated. Even if the provisions requiring substantiation were accepted, the Regulation did not prescribe a penalty of non-acceptance of the objection on procedural Grounds if it was submitted without

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substantiation. Moreover, the provision requiring substantiation in the repealed regulation did not specify a particular form for substantiation. Therefore, it is sufficient for the objector to state that the assessment is excessive. It is evident to the Department that if the assessment is substantial and objected to, this alone shall be sufficient as Grounds for the objection, as the burden of providing evidence remains with the objector. Accordingly, Zakat Payer requests annulment of Primary Department's Decision for the reasons stated above.

On … dated../../.. AH corresponding to ../../..., the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On … dated../../.. AH Corresponding to ../../…, and by informing the Department of Zakat Payer's appeal, the Department requested ZATCA to submit Zakat Payer's letter of objection. ZATCA complied and provided the requested document.

On … dated../../.. AH corresponding to ../../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, and where Zakat Payer's appeal lies in neglecting Primary Department's Decision for the reasons of his objection, which centered on disregarding his statutory accounts and assessing him based on the estimated method. Upon reviewing the subject matter of dispute, examining the case file, and considering Zakat Payer's objection, it was found that Zakat Payer requests the assessment be based on the financial statements he submitted to ZATCA. This is sufficient Grounds for objecting to ZATCA's assessment without the need to specify and repeat this for each item under dispute. As a result, this Department concludes that Zakat Payer's appeal shall be accepted, the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah shall be annulled, and the case shall be returned to the Department for substantive review. In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept, in form, the Appeal submitted by Zakat Payer, ... Establishment, Commercial Register (...), TIN (...), against Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, Decision No. (IZJ-2020-129), issued in Case No. (Z-4972-2019) related to zakat assessment for the years1434 AH and 1435 AH.

Second: On Merits:

Accept Zakat Payer's appeal, and annul Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, and return the case to the Department for substantive review, in accordance with the reasons and considerations outlined in this Decision.

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

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Keywords
Zakat – Accounts - External Procurement - Partner Subcontractor - Case Return

Abstract

The Appellant (Zakat Payer) is requesting annulment of Primary Department's Decision No. (IZJ-2020-159) concerning Zakat assessment for the year 2015. Zakat Payer's appeal is based on the claim that the Primary Department neglected to address the items under dispute substantively. After considering Zakat Payer's appeal, reviewing the contested Decision, and examining the case file, it was found that the Primary Department did not address Zakat Payer's objections regarding the item (External Purchases for 2015) and the item (Partner Subcontractor for 2015). This Department has confirmed that Zakat Payer did object to these two items before the Primary Department, which means the Department did not fully exercise its jurisdiction in resolving the dispute regarding these items. Consequently, this Department concludes that the appeal is accepted, and the case is remanded for further consideration.

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider appeal filed on ../../... corresponding to …./../... by ..., with National ID No. (...) acting as representative of the Appellant Company, under Memorandum of Association, challenges Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, Decision No. (IZJ-2020-159) issued in Case No. (Z-6597-2019) related to zakat assessment for the year 2015 AD, filed by the Appellant against ZATCA. Primary Department's Decision in this matter was as follows:

First: In form:

Accept the Plaintiff's (... Co.), CR No. (...) claim (....), in form, as it was filed during the legally prescribed period.

Second: On Merits:

1. Confirm resolution of the dispute between the Plaintiff and the Defendant regarding the item related to non-deduction of the estimated accounting for Tabuk Plants Project for the year 2015.
2. Confirm resolution of the dispute between the Plaintiff and the Defendant regarding the item of Duration in Days for the year 2015.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

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Zakat Payer objects to Primary Department's Decision under appeal, claiming that the contested Decision did not consider that the reassessment by ZATCA was based on a short financial period, and there was no original filing to reassess. Zakat Payer states that ZATCA did not provide a return form to be completed, as the year in question was a short year from 23/08/2015 to 31/12/2015, and they were unable to file an objection due to the absence of a return form on ZATCA's website. Zakat Payer manually submitted the objection on 15/10/2018 to open the reassessment file in the system and complete the objection items. The appealed items include "External Purchases" and "Partner Subcontractor." During the hearing, ZATCA's representative mentioned that these two items were not part of the original objection filed with ZATCA. Zakat Payer requests that the case be reviewed on its merits and, therefore, seeks annulment of Primary Department's Decision for the reasons stated above.

The Department decided to reopen the case, and ZATCA submitted a response memorandum dated ../../..., corresponding to ../../..., addressing Zakat Payer's appeal. In addition to its position previously presented before the Primary Department, ZATCA clarified by referring to Zakat Payer's objection memorandum submitted to ZATCA under No. (...) and dated ../../..., it was found that Zakat Payer did not object to these two items and had not previously raised them before ZATCA. ZATCA requests that the appeal concerning these two items be dismissed, as they were not initially objected to before ZATCA, in accordance with Article (2) of Tax Dispute and Violation Committee Procedures and Paragraph (1) of Article (3) of the same procedures. Therefore, ZATCA maintains the validity and correctness of its procedures and requests dismissal of Zakat Payer's appeal and upholding Primary Department's Decision for the aforementioned reasons.

On ....., dated... /.. /... corresponding to .. /.. /..., the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat Payer's appeal is based on the claim that the Primary Department neglected to review the disputed items on their merits. Meanwhile, ZATCA argues that its procedures were correct and sound, and it requests dismissal of Zakat Payer's appeal and upholding of the Primary Department's Decision. Upon reviewing Zakat Payer's appeal, examining the contested Decision, and assessing case file, it was found that the Primary Department did not address Zakat Payer's objections regarding the "External Purchases" item for 2015 and the "Partner Subcontractor" item for 2015. This Department has confirmed that Zakat Payer did raise objections on these two items before the Primary Department. As a result, this Department concludes that the Primary Department did not fully exercise its jurisdiction in resolving the dispute concerning these two items. Therefore, to ensure Zakat Payer's right to a two-tier litigation process, this Department concludes that the case shall be remanded to the Primary Department for a ruling on the matter.

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In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept, in form, the Appeal submitted by Zakat Payer, ... Establishment, Commercial Register (...), TIN (...), against Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, Decision No. (IZJ-2020-159), issued in Case No. (Z-6597-2019) related to zakat assessment for the year 2015.

Second: On Merits:

Accept Zakat Payer's appeal, and return the case the First Department for Determination of Income Tax Violations and Disputes in Jeddah for substantive review, in accordance with the reasons and considerations outlined in this Decision.

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

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Keywords
Zakat – Accounts – Statutory Term – Cancel Primary Department's Decision - Return the Case

Abstract

The Appellant (Zakat Payer) is requesting annulment of Primary Department's Decision No. (IZD-2020-311) concerning Zakat assessment for the year 2015. Zakat Payer's appeal is based on objection to Primary Department's rejection of the case on procedural Grounds, asserting that Zakat Payer submitted his objection to ZATCA within the statutory deadline of sixty (60) days. It was found that Zakat Payer submitted his objection to the revised assessment issued on 19/12/1440 AH, corresponding to 20/08/2019 AD, via email on 10/01/1441 AH, corresponding to 09/09/2019 AD, which confirms that the objection was submitted within the statutory period. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the Appeal submitted on .../.../..., corresponding to .../.../..., by/ ... (National ID No. (...), in his capacity as representative of the Appellant Company (by virtue of Power of Attorney No. (...)), against Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, Decision No. (IZD-2020-311), issued in Case No. (Z-10310-2019), regarding Zakat assessment for the year 2015 AD, filed by the Appellant against ZATCA, regarding which the Primary Department ruled as follows:

Reject the case due to pre-mature submission.

Since Zakat Payer (... Company) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision under appeal, claiming that he submitted his objection to ZATCA within the statutory period of sixty days. Therefore, Primary Department's conclusion that the case was not accepted due to being filed prematurely is incorrect. Accordingly, Zakat Payer requests annulment of the contested Decision and review of his case on its merits for the reasons mentioned above.

On ... dated../../.. AH On .../../..., the Department decided to hold an electronic hearing for 10 days. ZATCA submitted a memorandum in response to Zakat Payer's appeal, reaffirming the position it had previously presented before the Primary Department. ZATCA stated that Zakat Payer did not file an objection within the statutory period, rendering ZATCA's Decision immune to appeal due to expiration of the allowed time

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frame, in accordance with Article (2) of Tax Dispute and Violation Committee Procedures. ZATCA further noted that Zakat Payer's arguments were consistent with previous claims, to which ZATCA had already responded. ZATCA requested that the Department not accept any new requests from Zakat Payer, based on Article (186) of the Law of Civil Procedures. Therefore, ZATCA maintains the validity and soundness of its procedures and requests dismissal of Zakat Payer's appeal and upholding of Primary Department's Decision for the aforementioned reasons.

On … dated../../.. AH corresponding to ../../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat Payer's appeal is based on the objection to Primary Department's rejection of the case on procedural Grounds, asserting that he had submitted his objection to ZATCA within the statutory period of sixty (60) days. Meanwhile, ZATCA argues for dismissal of Zakat Payer's appeal and upholding of Primary Department's Decision. Upon reviewing the subject matter of the dispute and examining the Documents in the case file, and after considering the Decision under appeal, it was found that the conclusion reached was incorrect. The Primary Department determined that the statutory period of (60) days had lapsed for Zakat Payer to file an objection with ZATCA regarding the revised Zakat assessment issued on 19/12/1440 AH, corresponding to 20/08/2019 AD. However, it was confirmed to this Department that Zakat Payer submitted his objection to the revised assessment issued on 19/12/1440 AH, corresponding to 20/08/2019 AD, via email on 10/01/1441 AH, corresponding to 09/09/2019 AD, which proves that the objection was submitted within the statutory period. Therefore, the case is procedurally admissible. Given these circumstances, this Department concludes that the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam shall be annulled, and the case shall be remanded to the Department for substantive review.

Decision

First: Accept the appeal in form filed by Zakat Payer/ ..... Company, under CR. NO. (.....). TIN No. (.....), against the First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2020-311) delivered in Case No. (Z-10310-2019) in connection with Zakat assessment for 2015.

Second: On Merits:

Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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

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Keywords
Zakat – Accounts - Lack of Documents - Completion of the Lunar year - Return the case

Abstract

The Appellant (Zakat Payer) is requesting annulment of Primary Department's Decision No. (IZD-2020-184) concerning Zakat assessment for the year 2014. Zakat Payer's appeal is based on the objection to Zakat assessment under dispute, arguing that the required lunar year had not elapsed. Upon reviewing subject matter of the dispute, examining Zakat Payer's appeal, and assessing the case file, as well as reviewing the assessment notice issued by ZATCA, it was found that the notice did not meet the formal requirements stipulated by law. Specifically, it did not include the reasons for the adjustment, which would allow Zakat Payer to submit a substantiated objection. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

To consider the Appeal submitted on .../.../..., corresponding to .../.../..., by/ ... (National ID No. (...), in his capacity as representative of the Appellant Company by virtue of its Memorandum of Association, against Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, Decision No. (IZD-2020-184), issued in Case No. (Z-7022-2019), regarding Zakat assessment for the year 2014, filed by the Appellant against ZATCA, regarding which the Primary Department ruled as follows:

Dismiss, in form, the objection filed by Plaintiff..... Company, Commercial Register No.(...), due to expiration of the statutory period.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision under appeal, claiming that the Zakat assessment in question was made before completion of the lunar year. Additionally, the Primary Department addressed the procedural aspects rather than substance of the case. Therefore, Zakat Payer requests annulment of the contested Decision for the reasons stated above.

On ... dated../../.. AH Corresponding to ../../.., the Department decided to hold an electronic hearing for a period of 10 days. ZATCA submitted a memorandum in response to Zakat Payer's appeal, reaffirming its position presented before the Primary Department. ZATCA also confirmed the validity of Department's Decision, stating that it aligns with

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the provisions of Article (22) of Zakat Collection Regulations of 1438 AH. Additionally, Zakat Payer's arguments are consistent with those previously submitted, to which ZATCA had already responded. ZATCA requested that the Department not accept any new requests from Zakat Payer, based on Article (186) of the Law of Civil Procedures. Therefore, ZATCA insists on the correctness and validity of its actions and requests dismissal of Zakat Payer's appeal and upholding of Primary Department's Decision for the aforementioned reasons.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat Payer's appeal is based on the objection to the Zakat assessment under dispute, claiming that the required lunar year had not elapsed. Meanwhile, ZATCA argues for dismissal of Zakat Payer's appeal and upholding of the Primary Department's Decision. Upon reviewing subject of the dispute, examining Zakat Payer's appeal, and assessing case file, as well as reviewing the assessment notice issued by ZATCA, it was found that this notice did not meet the formal requirements stipulated by law. Specifically, the assessment did not include the reasons for adjustment, which would have enabled Zakat Payer to submit a substantiated objection. Consequently, this Department determines that ZATCA's assessment was procedurally flawed, thus rendering it invalid as a proper administrative Decision. This conclusion is not affected by the provision in the regulations that protects ZATCA's assessment Decision from appeal after expiration of the statutory objection period, as this protection applies only when the Decision is valid and complete according to legal requirements. Since this Department has established that the contested Decision contains a serious flaw, it allows for an appeal without being bound by the procedural time limits set by law. Accordingly, this Department concludes that the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam shall be annulled, and the case shall be returned for substantive review.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal filed by Zakat payer/ Company…, CR. NO. (…), TIN No (…) against First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No (IZD-2020-184) issued regarding Case No. (Z-7022-2019) in connection with zakat assessment for 2014.

Second: On Merits:

Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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

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Keywords
Zakat – Accounts – Failure to include date of the session in the mail sent - Return the case

Abstract

The Appellant (Zakat Payer) is requesting annulment of Primary Department's Decision No. (IFR-2020-207) regarding Zakat assessment for the year 1439 AH. Zakat Payer's appeal is based on the claim that he was unable to attend the hearing before the Primary Department due to the email sent to him by the Secretariat of Zakat, Tax, and Customs Committees lacking details about the time and date of the hearing. Upon reviewing subject of the dispute, it was found that Zakat Payer did not attend the hearing before the Department. The Decision to proceed with the case was based on confirmation that Zakat Payer had been notified through proper legal channels. As a result, Primary Department's Decision is annulled, and the case is returned for further consideration.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the Appeal submitted on …/…/…, corresponding to …/…/…, by/ ... (National ID No. (...), in his capacity as representative of the Appellant establishment (by virtue of Power of Attorney No. (...)), against Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, Decision No. (IFR-2020-207), issued in Case No. (Z-5188-2020), regarding Zakat assessment for the year 1439 AH, filed by the Appellant against ZATCA, regarding which the Primary Department ruled as follows:

Reject objection of the Plaintiff/ ..... TIN(…) to the Decision of Defendant/ZATCA related to zakat assessment in question.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision under appeal, claiming that he was unable to attend the judgment hearing to explain the reasons for his objection and present his full defense due to the lack of details regarding the time and date of the hearing in the email sent by the Secretariat of Tax Committees. Therefore, Zakat Payer requests annulment of Primary Department's Decision for the reasons mentioned.

The Department decided to reopen the case, and a response memorandum was submitted by ZATCA, dated ../../..., corresponding to …/../.., addressing Zakat Payer's appeal. ZATCA argues that Zakat Payer is not considered a small taxpayer, based on Paragraph (1) of Article (13) of Zakat Collection Regulations issued in 1438 AH and Paragraph (2) of

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the same Regulations. The assessment was revised using the estimated method, in accordance with Paragraph (5) of Article (13) of the previous Regulations. ZATCA bases its actions on Paragraph (6/b) and Paragraph (8) of the same Article. Therefore, ZATCA maintains the validity and correctness of its procedures and requests dismissal of Zakat Payer's appeal and upholding of Primary Department's Decision for the reasons stated.
On ....., dated... /.. /... corresponding to .. /.. /..., the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.
On ....., dated... /.. /... corresponding to .. /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.
On merits, after reviewing case file, Zakat Payer's appeal is based on the claim that he was unable to attend the hearing before the Primary Department due to the email sent by the Secretariat of the Zakat, Tax, and Customs Committees lacking details about the time and date of the hearing. Meanwhile, ZATCA requests dismissal of Zakat Payer's appeal and upholding of Primary Department's Decision. Upon reviewing the dispute, case file, and Primary Department's Decision, it was found that Zakat Payer did not attend the hearing before the Department. The Decision to proceed with the case was based on confirmation that Zakat Payer had been notified through proper legal channels. Since Zakat Payer argues in his appeal that he was not notified of the hearing date, and the Primary Department did not give Zakat Payer sufficient time to present his objections to ZATCA's Decision, Zakat Payer submitted to this Department a copy of the email he received from the Secretariat of Zakat, Tax, and Customs Committees regarding notification of the hearing date before the Primary Department. The email did not include the date or time of the hearing, making it unreasonable to expect Zakat Payer to attend a session for which he was not properly notified. Since the Secretariat has not provided any information contradicting what Zakat Payer submitted regarding the contents of this email, this Department concludes that Zakat Payer was not properly notified, based on the established Facts. Therefore, this Department decides to annul Primary Department's Decision and return the case for further review after ensuring that Zakat Payer is properly notified according to the applicable regulations.
In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept, in form, the Appeal submitted by Zakat Payer, ... Establishment, with Commercial Register No. (...), and TIN (...), against Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, under No. (IFR-2020-207), issued regarding Case No. (Z-5188-2020), related to Zakat assessment for the year 1439 AH.
Second: On Merits: Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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Keywords
Zakat – Accounts – Rejection of the Sharia power of attorney - The power of attorney is devoid of the right to plead - Repeat the case

Abstract

The Appellant (Zakat Payer) is requesting annulment of the Decision made by the Primary Department under No. (IRF-2020-102) regarding Zakat assessment for the year 1440 AH. Zakat Payer's appeal is based on the fact that his representative was unable to present his defenses during the hearing session before the Primary Department, attributing this to absence of the right to represent before tax committees in the power of attorney. Upon reviewing Zakat Payer's appeal and examining Primary Department's Decision, it was found that Zakat Payer did not attend the hearing session. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

This is to review the Appeal submitted on …/../.., corresponding to …/../.., by ....., National ID No. (…), in his capacity as representative of the Appellant Establishment, under Power of Attorney No. (…), against Decision of the First Department for Determination of Income Tax Violations and Disputes Resolution in Riyadh, No. (IRF-2020-102), issued regarding case No. (Z-13551-2020), related to Zakat assessment for the year 1440 AH. The Appellant has filed this case against ZATCA, and Primary Department's Decision was as follows:

Reject case filed by Plaintiff/....., (TIN …) against the Defendant, ZATCA, due to the failure to file a grievance against Defendant's Decision related to Zakat assessment for the year 1440 AH within the legally prescribed period.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

As Zakat Payer objects to Primary Department's Decision under appeal, he claims that the legal power of attorney was rejected by the Department because the power of attorney submitted by his representative did not contain the specific wording granting the right to plead and defend before the committees for tax violations and disputes. Consequently, the representative was unable to present his defenses. Zakat Payer further claims that ZATCA imposed an estimated Zakat of (SAR 69,096.11) for the year 1440 AH without accounting for any actual expenses or costs, and applied an estimated profit margin higher than the

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standard rates typically recognized in the tourism sector. Therefore, Zakat Payer requests annulment of Primary Department's Decision for the aforementioned reasons.

On … dated../../.. AH corresponding to ../../…, the Department decided to hold a ten-day electronic hearing. In response, ZATCA submitted a memorandum in which it addressed Zakat Payer's appeal, reaffirming its position presented before the Primary Department. ZATCA referenced Article (2) of Tax Dispute and Violation Committee Procedures , noting that the difference in days between the date of rejection of the objection and case filing exceeded thirty days. Therefore, since the statutory period for accepting the objection had lapsed, the appealed Decision is considered final and cannot be challenged. Accordingly, ZATCA insists on the validity of its procedure and requests rejection of Zakat Payer's appeal and confirmation of the Primary Department's Decision for the stated reasons.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat Payer's appeal is based on his representative's inability to present his defenses during the hearing before the Primary Department, attributing this to the absence of the right to plead before tax committees in the power of attorney. Meanwhile, ZATCA has requested rejection of Zakat Payer's appeal and upholding of Primary Department's Decision. It was not apparent from the appealed Decision that Zakat Payer was given an opportunity to present his objections, which indicates that the case was not ready for judgment. This is further evidenced by Zakat Payer's absence from the hearing before the Primary Department and his failure to submit a written objection in response to ZATCA's defense presented before the Department. Therefore, the Department concludes to accept Zakat Payer's appeal, annul Primary Department's Decision, and return the case to the Department for consideration after ensuring Zakat Payer's presence at the hearing before the Primary Department.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (... Enterprise), C.R. No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes in Riyadh Decision No (IRF-2020-102) rendered in Case No. (Z-13551-2020) regarding zakat assessment for 1440.

Second: On Merits:

Accept Zakat Payer's appeal, overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.

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Keywords
Zakat – Accounts – Rejection of the Sharia power of attorney - The power of attorney is devoid of the right to plead - Repeat the case

Abstract

The Appellant (Zakat Payer) is requesting annulment of Primary Department's Decision No. (IRF-2020-134) regarding Zakat assessment for the year 1439 AH. Zakat Payer's appeal is based on the fact that his representative was unable to present his defenses during the hearing session before the Primary Department, attributing this to the absence of the right to represent before tax committees in the power of attorney. Upon reviewing Primary Department's Decision, it was found that Zakat Payer did not attend the hearing. Consequently, the Appeal is accepted, and the case is returned for reconsideration.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

This is to review the Appeal submitted on …/../.., corresponding to …/../.., by ....., National ID No. (…), in his capacity as representative of the Appellant Establishment, under Power of Attorney No. (…), against Decision of the First Department for Determination of Income Tax Violations and Disputes Resolution in Riyadh, No. (IRF-2020-134), issued regarding case No. (Z-13535-2020), related to Zakat assessment for the year 1439 AH. The Appellant has filed this case against ZATCA, and Primary Department's Decision was as follows:

Reject case filed by Plaintiff/....., (TIN …) against the Defendant, ZATCA, due to the failure to file a grievance against Defendant's Decision related to Zakat assessment for the year 1439 AH within the legally prescribed period.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

As Zakat Payer objects to Primary Department's Decision under appeal, he claims that the legal power of attorney was rejected by the Department because the wording of the power of attorney submitted by his representative did not include the right to plead and defend before the committees for tax violations and disputes. Consequently, the representative was unable to present his defenses. Zakat Payer further adds that ZATCA imposed an estimated Zakat amount of (SAR 17,556.5) for the year 1439 AH, without accounting for any actual expenses or costs, and applied an estimated profit margin higher than the standard rates commonly recognized in the tourism sector. Therefore, Zakat

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Payer requests annulment of Primary Department's Decision for the aforementioned reasons.

On … dated../../.. AH corresponding to ../../…, the Department decided to hold an electronic hearing for 10 days. ZATCA submitted a memorandum in response to Zakat Payer's appeal, reaffirming its position presented before the Primary Department. Citing Article (2) of Tax Dispute and Violation Committee Procedures, ZATCA noted that the number of days between the date of rejection of the objection and case filing exceeded thirty days. Consequently, the appealed Decision is now protected by the statute of limitations and cannot be challenged. Furthermore, the issues raised by Zakat Payer are the same as those previously addressed by ZATCA, and ZATCA requests that the Department reject any new requests from Zakat Payer based on Article (186) of the Law of Civil Procedures. Therefore, ZATCA maintains the validity of its actions and requests rejection of Zakat Payer's appeal and confirmation of Primary Department's Decision for the stated reasons.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat Payer's appeal is based on his representative's inability to present his defenses during the hearing before the Primary Department, attributing this to the absence of the right to plead before tax committees in the power of attorney. Meanwhile, ZATCA has requested rejection of Zakat Payer's appeal and upholding of Primary Department's Decision. Upon Department's consideration of Zakat Payer's appeal, and after reviewing the Primary Department's Decision, it was found that Zakat Payer did not attend the hearing. In his appeal, Zakat Payer argued that he was unable to attend the hearing before the Primary Department. Furthermore, it was not evident from the appealed Decision that Zakat Payer was granted an opportunity to present his objections. This indicates that the case was not ready for adjudication, given Zakat Payer's absence from the hearing before the Primary Department and his failure to submit a written objection in response to ZATCA's defense raised before the Department. As a result, the Department concludes that Zakat Payer's appeal shall be accepted, Primary Department's Decision annulled, and the case returned for further consideration after ensuring Zakat Payer's ability to attend the hearing before the Primary Department.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept, in form, the Appeal submitted by Appellant/ ....., Commercial Register No. (…), TIN (…), against Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, No. (IRF-2020-134), issued regarding case No. (Z-13535-2020), related to Zakat assessment for the year 1439 AH.

Second: On Merits:

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Accept Zakat Payer's appeal, overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.

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Keywords
Zakat – Accounts – The assessment did not include reasons for adjustment – Case return.

Abstract

The Appellant (Zakat Payer) is requesting annulment of the appealed Decision No. (IZJ-2020-229) regarding Zakat assessment for the year 2016. Zakat Payer's appeal is based on the claim that the revised assessment by ZATCA did not include the reasons for adjustment, rendering the assessment procedurally flawed. After the Department reviewed the assessment letter issued by ZATCA, it was found that the letter did not meet one of its formal requirements as stipulated by regulations, as it did not include the reasons for the adjustments to the contested items. Consequently, the appeal is accepted, and the case is remanded for further consideration.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

This is to review the appeal submitted on …/../.., corresponding to …/../..., by /....., National ID No. (…), acting as representative of the Appellant company, under Power of Attorney No. (…), against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, No. (IZJ-2020-229), issued regarding case No. (Z-10615-2019), related to Zakat assessment for the year 2016, filed by the Appellant against ZATCA. The Decision of the Primary Department was as follows:

Reject the case filed by the Plaintiff (..... Company) with Commercial Register No.: (....) in form.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

As Zakat Payer objects to Primary Department's Decision under appeal, he claims that the revised assessment by ZATCA is procedurally flawed, as it did not include the reasoning for adjustment, thereby violating paragraph (7) of Article (21) of the Executive Regulations issued by Royal Decree No. (M/40) dated 07/07/1405 AH. Therefore, Zakat Payer requests annulment of Primary Department's Decision for the aforementioned reasons.

On ....., dated... /.. /...., corresponding to... /.. /..., the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file,

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the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, Zakat Payer's appeal is based on the claim that the revised assessment by ZATCA did not include the reasons for adjustment, rendering the assessment procedurally flawed. After the Department reviewed the assessment letter issued by ZATCA, it became clear that the letter did not meet one of its formal requirements as stipulated by the regulations, as it failed to include the reasons for adjustments to the contested items, which would have allowed Zakat Payer to submit a reasoned objection. ZATCA is required to provide the reasons upon which the adjustments are based, so that Zakat Payer may either accept the adjustments or object to them. Since this was not done, the Department has determined that ZATCA's assessment is procedurally flawed, invalidating it as a proper administrative Decision. The fact that the Decision is protected from appeal due to expiration of the statutory objection period does not affect this conclusion, as such protection applies only when the Decision is valid and complete in all its required elements. Therefore, this Department concludes to annul the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah and return the case for reconsideration on its merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept, in form, the Appeal submitted by Appellant/..... Company, Commercial Register No. (…), TIN (…), against Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, No. (IZJ-2020-229), issued regarding case No. (Z-10615-2019), related to Zakat assessment for the year 2016.

Second: On Merits:

Accept Zakat Payer's appeal, overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.

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

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Keywords
Zakat – Accounts – Waiver of Commercial Registration – Retention of TIN – Case return.

Abstract

The Appellant (Zakat Payer) is requesting annulment of Primary Department's Decision No. (ISZR-2020-162) regarding Zakat assessment for the year 2013. After reviewing case file, Zakat Payer's appeal is based on the objection to ZATCA's action of imposing a Zakat assessment on a record that had been transferred to another party, simply because the TIN remained in Zakat Payer's name. This indicates the validity of Zakat Payer's claim that he was unaware of the Zakat assessment. Whereas the judicial ruling is based on key pillars, one of which is the reasoning behind it, which must include the claims and defenses of the parties, an examination of the evidence, and a discussion of those claims to reach a proper conclusion in accordance with established legal principles. The reasoning must address every claim or defense presented before the judicial Department, especially if resolving it could change outcome of the dispute. Failing to do so renders the ruling deficient. It was found that the appealed Decision lacked any discussion of Zakat Payer's essential defense, specifically his lack of knowledge regarding Zakat assessment. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider appeal filed on ../../... corresponding to .../../.., by/.... (National ID No. ...) in his capacity as the former owner of Commercial Register No. (...), against Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, No. (ISZR-2020-162), issued in case No. (Z-5696-2020), related to the estimated Zakat assessment for the year 2013, filed by the Appellant against ZATCA. Primary Department's Decision ruled as follows:

Reject, in form, the case filed by Plaintiff/ ....., National ID No. (...); in accordance with the stated reasons.

Dissatisfied with this Decision, Zakat Payer (...) submitted a statement of appeal summarized as follows:

As Zakat Payer objects to Primary Department's Decision under appeal, he claims that he obtained a commercial register on 16/10/1431 AH corresponding to 24/09/2010, but did not engage in any commercial activity thereunder. He later transferred the commercial registration to Mr. Saad bin Mohammed Abu Washtan, and the transfer of ownership was documented with the Ministry of Commerce. The transfer stipulated that it included both

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the rights and liabilities of the registration. Since 1434 AH, the financial statements have been submitted under the name of the transferee. However, in Dhul-Qi'dah 1440 AH, Zakat Payer's services were suspended by ZATCA, and he was asked to settle amounts related to declarations not issued in his name but only associated with his TIN. Therefore, Zakat Payer requests annulment of Primary Department's Decision for the aforementioned reasons.

On … dated../../.. AH On …/../…, the Department decided to hold an electronic hearing for 10 days. ZATCA submitted a memorandum in response to Zakat Payer's appeal, maintaining that Primary Department's Decision is consistent with the provisions of Article (2) of Tax Dispute and Violation Committee Procedures. ZATCA noted that the number of days between issuance of its Decision and filing of the objection exceeded 60 days, thereby rendering the appealed Decision immune to further challenge before any other authority due to lapse of the statutory period for appeal. ZATCA reaffirmed the position it had presented before the Primary Department, asserting that the issues raised by Zakat Payer are the same as those previously addressed. ZATCA requested that the Department reject any new requests from Zakat Payer based on Article (186) of the Law of Civil Procedures. Therefore, ZATCA insists on the validity of its procedures and requests rejection of Zakat Payer's appeal and confirmation of Primary Department's Decision for the aforementioned reasons.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On merits, and after Department's review of case file, Zakat Payer's appeal is based on the objection to ZATCA's action of imposing a Zakat assessment on a record that had been transferred to another party, merely because the TIN remained in his name. Meanwhile, ZATCA maintains the validity and correctness of its procedure and requests rejection of Zakat Payer's appeal and confirmation of the Primary Department's Decision. Zakat Payer requests annulment of Primary Department's Decision. According to the Facts and Documents of the case, it is evident that the commercial activity subject to the Zakat assessment pertains to (…) establishment, and ownership of the registration was transferred from Zakat Payer to (…) on ..... /.. /... corresponding to /.. /.... Since Zakat assessment pertains to the year 2013, it is clear that the assessment was directed toward an individual who was not responsible for paying the due Zakat under the contested assessment. This indicates validity of Zakat Payer's claim of being unaware of the Zakat assessment. Whereas the judicial ruling must be based on key pillars, one of which is its reasoning, which must include the claims and defenses of the parties, examination of their evidence, and discussion of such evidence to reach a proper ruling in accordance with established legal principles. The reasoning must address every claim or defense presented before the judicial Department, especially if resolving it could alter outcome of the dispute. Otherwise, the ruling would be considered deficient. It has been found that the appealed Decision did not address Zakat Payer's essential defense, specifically his lack of knowledge regarding the assessment, which renders the Decision deficient and subject to annulment. In order to grant Zakat Payer the right to a two-tier judicial process, this

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Department concludes to accept Zakat Payer's appeal, annul Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, and return the case to the Department for further consideration on its merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept, in form, the appeal submitted by the Appellant Zakat Payer/.... with Commercial Register No. (…), TIN (…), against Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, No. (ISZR-2020-162), issued in Case No. (Z-5696-2020) regarding the estimated Zakat assessment for the year 2013.

Second: On Merits:

Accept Zakat Payer's appeal, overturn the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.

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

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Keywords
Zakat – Accounts – Maintenance of Books and Accounts based on Financial Statements – Case Remand

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (IFR-2020-90) regarding the zakat assessment for the years 1434 AH to 1437 AH, where it is based on the fact that it was unable to attend the hearing before the Primary Department due to the failure of the General Secretariat of the Zakat, Tax and Customs Committees to send the hearing link. It was found, upon reviewing the primary Decision, that the Zakat Payer did not attend the hearing, and the Decision to proceed with the case was based on the confirmation that the Zakat Payer had been notified of the hearing date. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider appeal filed on ../../... corresponding to ../../...., by ..., National ID No. (...), in his capacity as the owner of the Appellant Establishment against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh No. (IFR-2020-90), issued in case No. (Z-9840-2019), regarding the zakat assessment for the years 1434 AH to 1437 AH, filed by the Appellant against ZATCA. The primary Decision stated the following:

Reject the Plaintiff's/ ... Est., TIN No. (...), objection against the Defendant's/ZATCA action regarding the zakat assessment in question.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

The Zakat Payer challenges the appealed primary Decision, claiming that the estimated assessment for the disputed years should be canceled, due to ZATCA's acceptance of the opening of Declaration No. (...) for those who maintain books and accounts based on the financial statements submitted according to the invoice issued on .. /.. Since all declarations were submitted and invoices were issued for the submitted declarations, ZATCA relied on both the estimated and official zakat declarations, contradicting the Implementing Regulations for Zakat Collection. Furthermore, the Zakat Payer argues that it was not notified of the hearing date, requesting that the hearing be rescheduled. Therefore, the Zakat Payer requests that the primary Decision be overturned for the aforementioned Grounds.

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On … dated../../.. AH corresponding to ../../...., the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, stating that it conducted the reassessment on an estimated basis because the Zakat Payer does not qualify as a small zakat payer, according to Paragraph (2) and Paragraph (5) of Article (13) and Paragraph (2) of Article (20) of the Implementing Regulations for Zakat Collection. ZATCA exercised its legal right by reassessing the Zakat Payer based on the importation rule mentioned in Article (13). Therefore, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision for the aforementioned reasons.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, the Department, after reviewing the case file, notes that the Zakat Payer's appeal is based on its inability to attend the hearing before the Primary Department due to the failure of the General Secretariat of the Zakat, Tax and Customs Committees to send the hearing link. ZATCA, on the other hand, insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. It was found, upon reviewing the subject of the dispute and reviewing the primary Decision, that the Zakat Payer did not attend the hearing. The Decision to proceed with the case was based on the confirmation that the Zakat Payer had been notified of the hearing date. Since the Zakat Payer argued before this Department that it was not notified of the hearing date and it does not appear from the Facts of the Decision that the Zakat Payer was given the opportunity to present its case to the Primary Department, especially regarding ZATCA's argument before the Primary Department, it is evident that the case was not ready for a Decision. This is due to the Zakat Payer's inability to attend the hearing, and it has not been proven that the Zakat Payer was given the opportunity to present its case regarding this dispute. This Department concludes that the Zakat Payer's appeal should be accepted, the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh should be canceled, and the case is to be remanded to it for reconsideration in order to ensure the Zakat Payer's right to appeal at two levels. However, the Department must first verify that the Zakat Payer was properly notified of the hearing in accordance with the applicable regulations.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form by the Zakat Payer/ ... Est., CR No. (...), TIN No. (...), against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh No. (IFR-2020-90), issued in case number (Z-9840-2019), related to zakat assessment for the years 1434 AH to 1437 AH.

Second: On Merits:

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Accept Zakat Payer's appeal, overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration according to the reasons and Grounds stated herein.
May Allah's Blessings and Peace be upon our Prophet Muhammad and his family and companions.

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Decision No. IR-2022-62
Case No. Z-22642-2020

Keywords
Zakat – Accounts – Absence of a Justified and Written Objection from the Zakat Payer - Case Remand

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (Z-9261-2019) regarding the zakat assessment for the years 1437 AH and 1438 AH, where it is based on an objection to the Primary Department support of ZATCA's argument, which claimed that there was no justified and written objection from the Zakat Payer, despite ZATCA's failure to provide any evidence to substantiate this claim. It was found, upon examining the case file, that the notification sent to the Zakat Payer regarding ZATCA's Decision to amend the Zakat Payer's declaration was merely an invoice that did not meet the formal requirements stipulated in ZATCA's Decisions regarding assessments issued to zakat payers. Specifically, the notification did not include the reasons for the amendment, which would have allowed the Zakat Payer to file a substantiated objection. Consequently, the appeal is granted, and the case is remanded.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal presented on ../../.... AH corresponding to ../../.... AD by .., National ID No. (...), in his capacity as the owner of the Appellant Establishment against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah No. (IZJ-2020-65), issued in case No. (Z-9261-2019), regarding the zakat assessment for the years 1437 AH and 1438 AH, filed by the Appellant against ZATCA. The primary Decision stated the following:

Dismiss the Plaintiff's (... Est.), CR No. (...) claim in form due to the unsubstantiated nature of the objection.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

The Zakat Payer challenges the appealed primary Decision, claiming that the Department endorsed ZATCA's, while the latter failed to provide any evidence to substantiate the Zakat Payer's failure to submit a substantiated objection. Therefore, the Zakat Payer requests the appealed primary Decision be overturned for the aforementioned Grounds.

On … dated../../.. AH corresponding to ../../...., the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the Primary Department

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and stating that since the Zakat Payer did not submit a justified and written memorandum, its objection was rejected based on Paragraph (1) of Article (22) of the Implementing Regulations for Zakat Collection issued in 1438 AH. Additionally, the issues raised by the Zakat Payer do not deviate from those previously presented and addressed by ZATCA. Moreover, ZATCA requests that no new requests from the Zakat Payer be accepted, based on Article (186) of Law of Civil Procedures. Therefore, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision for the aforementioned reasons.

On … dated../../.. AH Corresponding to ./../...., the Department, upon reviewing the Zakat Payer's appeal, requested ZATCA to be provided with the assessment letter for the two years in question and the original objection submitted by the Zakat Payer within three (3) days of date.

Subsequently, a collection of Documents was submitted by ZATCA.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for merits of the case, the Zakat Payer's objection is based on the objection to Primary Department's support of ZATCA's claim that there was no justified and written objection from the Zakat Payer, without ZATCA providing evidence to support this claim. Meanwhile, ZATCA argues that the appeal should be dismissed and the primary Decision upheld. The Department, upon reviewing the dispute, noted that it had requested ZATCA to provide the assessment letter for the two years in question. After examining the case file, it was found that the notification sent to the Zakat Payer by ZATCA regarding its Decision to amend the Zakat Payer's declaration was merely an invoice that did not meet the formal requirements stipulated in ZATCA's Decisions regarding assessments levied on zakat payers, as it did not include the reasons for the amendment, which would have allowed the zakat payer to file a substantiated objection. As a result, ZATCA's assessment was found to be flawed in form, thereby rendering it invalid as an administrative Decision. Given that a serious flaw in the appealed Decision has been established before this Department, it is determined that an appeal against it is permissible without adhering to the formal requirements. Accordingly, this Department decides to cancel the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah and remand the case to it for a substantive review.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form by the Zakat Payer/ ... Est, CR No. (...), TIN No. (...), against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah No. (IZJ-2020-65), issued in case number (Z-9261-2019), related to zakat assessment for the years 1437 AH to 1438 AH.

Second: On Merits:

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Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-121
Case No. Z-72246-2021

Keywords
Zakat – Accounts –Fire – Overlap between the Assessment Timing and Illness of the Communication Officer - Cancellation of the Primary Decision - Case Remand

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (Z-45870-2021) regarding the zakat assessment for the year 1435 AH, where it is based on the claim that it did not submit its objection to ZATCA within the statutory period due to the overlap between the issuance of the reassessment and the illness of its communications officer, who was responsible for handling text messages. This Department concluded that ZATCA's assessment was flawed in form, rendering it an invalid administrative Decision. This does not affect the fact that the regulation provides for the protection of ZATCA's assessment Decision from being challenged after the statutory objection periods have elapsed. This provision applies only if the Decision is valid and all required legal components are met. Therefore, the Department ruled to accept the appeal in form, cancel the primary Decision, and remand the case to it for a substantive review.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal presented on .. /.. /.... AH corresponding to ../../.... AD by ..., National ID No. (...), against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2021-1096), issued in case No. (Z-45870-2021), regarding the zakat assessment for the years 1434 AH, filed by the Appellant against ZATCA. The primary Decision stated the following:

Dismiss the Case in form filed by Plaintiff (...), holder of National ID No (...), against Defendant (ZATCA).

Dissatisfied with this Decision, Zakat Payer (...) submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming failure to file an objection within the statutory period due to a reason beyond its control, which is a fire at the Head Office on 10/10/1432 AH, including Accounting Department at that time. In addition, Zakat Payer claims failure to file an objection to reassessment within the statutory period due to illness of liaison officer who is responsible for SMS when the assessment was received. Thereupon, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal and hear the Case on merits for the aforementioned reasons.

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On … dated../../.. AH corresponding to ../../...., the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the Primary Department and stating that the Zakat Payer did not file an objection within the statutory period, thereby rendering ZATCA's Decision immune from challenge due to the lapse of time, in accordance with Paragraph (1) of Article (2) of Implementing Regulations for Zakat Collection issued in 1438 AH and Article (2) of Rules of Tax Dispute and Violation Committee Procedures. Moreover, the Zakat Payer did not file its objection before the Primary Department within the statutory period, thereby rendering ZATCA's Decision immune from challenge, in accordance with Paragraph (2) of Article (3) of Rules of Tax Dispute and Violation Committee Procedures. ZATCA requested the Department not accept any new requests from the Zakat Payer in accordance with Article (168) of Law of Civil Procedures. Therefore, ZATCA maintains correctness and validity of its actions and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision for the aforementioned Grounds.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Zakat Payer's appeal involves claim that Zakat Payer did not file an objection before ZATCA within the statutory period for a reason attributed to coincidence of reassessment with illness of liaison officer who is responsible for SMS. On the other hand, ZATCA requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Upon the Department's review of the Zakat Payer's appeal for the year 1434 AH and examination of the case file, as well as upon review of the assessment letter issued by ZATCA, it became evident that this letter did not meet the formal requirements stipulated by law, as it did not include the reasons for the amendment, which would allow the Zakat Payer to submit a substantiated objection. The mere reference to the amounts added to the zakat base does not, in itself, constitute a reason for amending the Zakat Payer's declaration. Rather, ZATCA must clearly state the reasons upon which it relied in making its amendments, so that the Zakat Payer may either accept the adjustment or object to it. Given that this was not the case, this Department concluded that ZATCA's assessment was flawed in form, rendering it an invalid administrative Decision. This is not affected by the provisions set by legislator, which make ZATCA assessment Decision unappealable by lapse of statutory period for objection, as this matter is established when it is valid and meets all the legally required conditions. Therefore, this Department concluded to cancel the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the case back to it for a substantive review.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (...), holder of National ID No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes

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in Dammam Decision No (IZD-2021-1096) rendered in Case No. (Z-45870-2021) regarding tax assessment for 1434.

Second: On Merits:

Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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

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Keywords
Zakat – Accounts –Fire – Overlap between the Assessment Timing and Illness of the Communication Officer - Cancellation of the Primary Decision - Case Remand

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (IZD-2021-1099) regarding the zakat assessment for the year 1436 AH, where it is based on the claim that it did not submit its objection to ZATCA within the statutory period due to the overlap between the issuance of the reassessment and the illness of its communications officer, who was responsible for handling text messages. This Department concluded that ZATCA's assessment was flawed in form, rendering it an invalid administrative Decision. This does not affect the fact that the regulation provides for the protection of ZATCA's assessment Decision from being challenged after the statutory objection periods have elapsed. This provision applies only if the Decision is valid and all required legal components are met. Therefore, the Department accepts Zakat Payer's appeal and remands the Case for reconsideration on merits.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the Appeal filed on ... /.. /.... AH corresponding to ../../.... AD by ..., National ID No. (...), against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2021-1099), issued in case No. (Z-40552-2021), regarding the zakat assessment for the years 1436 AH, filed by the Appellant against ZATCA. The primary Decision stated the following:
Dismiss the Case in form filed by Plaintiff (...), holder of National ID No (...), against Defendant (ZATCA).
Dissatisfied with this Decision, Zakat Payer (...) submitted a statement of appeal summarized as follows:
Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming failure to file an objection within the statutory period due to a reason beyond its control, which is a fire at the Head Office on 10/10/1432 AH, including Accounting Department at that time. In addition, Zakat Payer claims failure to file an objection to reassessment within the statutory period due to illness of liaison officer who is responsible for SMS when the assessment was received. Thereupon, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal and hear the Case on merits for the aforementioned reasons.

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On … dated../../.. AH corresponding to ../../...., the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the Primary Department and stating that the Zakat Payer did not file an objection within the statutory period, thereby rendering ZATCA's Decision immune from challenge due to the lapse of time, in accordance with Paragraph (1) of Article (2) of Implementing Regulations for Zakat Collection issued in 1438 AH and Article (2) of Rules of Tax Dispute and Violation Committee Procedures. Moreover, the Zakat Payer did not file its objection before the Primary Department within the statutory period, thereby rendering ZATCA's Decision immune from challenge, in accordance with Paragraph (2) of Article (3) of Rules of Tax Dispute and Violation Committee Procedures. ZATCA requested the Department not accept any new requests from the Zakat Payer in accordance with Article (168) of Law of Civil Procedures. Therefore, ZATCA maintains correctness and validity of its actions and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision for the aforementioned Grounds.

On … dated../../.. AH corresponding to ../../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Zakat Payer's appeal involves claim that Zakat Payer did not file an objection before ZATCA within the statutory period for a reason attributed to coincidence of reassessment with illness of liaison officer who is responsible for SMS. On the other hand, ZATCA requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Upon the Department's review of the Zakat Payer's appeal for the year 1436 AH and examination of the case file, as well as upon review of the assessment letter issued by ZATCA, it became evident that this letter did not meet the formal requirements stipulated by law, as it did not include the reasons for the amendment, which would allow the Zakat Payer to submit a substantiated objection. The mere reference to the amounts added to the zakat base does not, in itself, constitute a reason for amending the Zakat Payer's declaration. Rather, ZATCA must clearly state the reasons upon which it relied in making its amendments, so that the Zakat Payer may either accept the adjustment or object to it. Given that this was not the case, this Department concluded that ZATCA's assessment was flawed in form, rendering it an invalid administrative Decision. This is not affected by the provisions set by legislator, which make ZATCA assessment Decision unappealable by lapse of statutory period for objection, as this matter is established when it is valid and meets all the legally required conditions. Therefore, this Department concluded to cancel the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the case back to it for a substantive review.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (...), holder of National ID No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes

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in Dammam Decision No (IZD-2021-1099) rendered in Case No. (Z-40552-2021) regarding tax assessment for 1436 AH.

Second: On Merits:

Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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

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Keywords
Zakat – Accounts –Fire – Overlap between the Assessment Timing and Illness of the Communication Officer - Cancellation of the Primary Decision - Case Remand

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (IZD-2021-1061) regarding the zakat assessment for the year 2016, where it is based on the claim that ZATCA did not provide the reasons for its amendments to the Zakat Payer's filed declaration, which is the subject of the dispute. It was found that, upon reviewing the assessment letter issued by ZATCA, this letter did not meet the formal requirements stipulated by law, as it did not include the reasons for the amendment, which would allow the Zakat Payer to submit a substantiated objection. Therefore, the Department accepts Zakat Payer's appeal and remands the Case for reconsideration on merits.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal presented on .. /.. /.... AH corresponding to ../../.... AD by ..., National ID No. (...), against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2021-1061), issued in case No. (Z-42077-2021), regarding the zakat assessment for the years 2016, filed by the Appellant against ZATCA. The primary Decision stated the following:

Dismiss the case filed by the Plaintiff/.... Company, C.R No. (.....) against the Defendant/ ZATCA in form.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

The Zakat Payer challenges the appealed primary Decision, claiming that it did not file its objection within the statutory period due to the COVID-19 pandemic, which disrupted all activities. Additionally, ZATCA did not provide reasons for the amendment to the declaration. Therefore, the Zakat Payer requests overturning the appealed primary Decision and reconsider its case in merits for the aforementioned Grounds.

On … dated../../.. AH corresponding to ../../...., the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the Primary Department and stating that the Zakat Payer did not file an objection within the statutory period, thereby rendering ZATCA's Decision immune from challenge due to the lapse of time, in accordance with Paragraph (1) of Article (22) of the Implementing Regulations for Zakat

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Collection issued in 1438 AH and Article (2) of Rules of Tax Dispute and Violation Committee Procedures. ZATCA requested the Department not accept any new requests from the Zakat Payer in accordance with Article (168) of Law of Civil Procedures. Therefore, ZATCA maintains correctness and validity of its actions and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision for the aforementioned Grounds.

On … dated../../.. AH corresponding to ../../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, the Zakat Payer's appeal is based on the claim that ZATCA did not provide reasons for the amendment to its declaration under dispute, while ZATCA, on the other hand, requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision. Upon the Department's review of the Zakat Payer's appeal for the year 2016 and examination of the case file, as well as upon review of the assessment letter issued by ZATCA, it became evident that this letter did not meet the formal requirements stipulated by law, as it did not include the reasons for the amendment, which would allow the Zakat Payer to submit a substantiated objection. The mere reference to the amounts added to the zakat base does not, in itself, constitute a reason for amending the Zakat Payer's declaration. Rather, ZATCA must clearly state the reasons upon which it relied in making its amendments, so that the Zakat Payer may either accept the adjustment or object to it. Given that this was not the case, this Department concluded that ZATCA's assessment was flawed in form. This is not affected by the provisions set by legislator, which make ZATCA assessment Decision unappealable by lapse of statutory period for objection, as this matter is established when it is valid and meets all the legally required conditions. Therefore, this Department concluded to cancel the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the case back to it for a substantive review.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer/ ..... Company, under CR. NO. (.....). TIN No. (.....), against the First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2021-1061) delivered in Case No. (Z-42077-2021) in connection with Zakat assessment for 2016.

Second: On Merits:

Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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

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Keywords
Zakat – Accounts – ZATCA's Assessment Flawed in Form – Cancellation of the Primary Decision – Case Remand

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (IZD-2021-1060) regarding the zakat assessment for the year 2017, where it is based on the claim that ZATCA did not provide the reasons for its amendments to the Zakat Payer's filed declaration, which is the subject of the dispute. It was found that, upon reviewing the assessment letter issued by ZATCA, this letter did not meet the formal requirements stipulated by law, as it did not include the reasons for the amendment, which would allow the Zakat Payer to submit a substantiated objection. Therefore, the Department accepts Zakat Payer's appeal and remands the Case for reconsideration on merits.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal presented on .. /.. /.... AH corresponding to ../../.... AD by ..., National ID No. (...), against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2021-1060), issued in case No. (Z-42091-2021), regarding the zakat assessment for the years 2017, filed by the Appellant against ZATCA. The primary Decision stated the following:

Dismiss the case filed by the Plaintiff/.... Company, C.R No. (.....) against the Defendant/ ZATCA in form.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

The Zakat Payer challenges the appealed primary Decision, claiming that it did not file its objection within the statutory period due to the COVID-19 pandemic, which disrupted all activities. Additionally, ZATCA did not provide reasons for the amendment to the declaration. Therefore, the Zakat Payer requests overturning the appealed primary Decision and reconsider its case in merits for the aforementioned Grounds.

On … dated../../.. AH corresponding to ../../...., the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the Primary Department and stating that the Zakat Payer did not file an objection within the statutory period, thereby rendering ZATCA's Decision immune from challenge due to the lapse of time, in accordance with Paragraph (1) of Article (22) of the Implementing Regulations for Zakat

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Collection issued in 1438 AH and Article (2) of Rules of Tax Dispute and Violation Committee Procedures. ZATCA requested the Department not accept any new requests from the Zakat Payer in accordance with Article (168) of Law of Civil Procedures. Therefore, ZATCA maintains correctness and validity of its actions and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision for the aforementioned Grounds.

On … dated../../.. AH corresponding to ../../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, the Zakat Payer's appeal is based on the claim that ZATCA did not provide reasons for the amendment to its declaration under dispute, while ZATCA, on the other hand, requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision. Upon the Department's review of the Zakat Payer's appeal for the year 2016 and examination of the case file, as well as upon review of the assessment letter issued by ZATCA, it became evident that this letter did not meet the formal requirements stipulated by law, as it did not include the reasons for the amendment, which would allow the Zakat Payer to submit a substantiated objection. The mere reference to the amounts added to the zakat base does not, in itself, constitute a reason for amending the Zakat Payer's declaration. Rather, ZATCA must clearly state the reasons upon which it relied in making its amendments, so that the Zakat Payer may either accept the adjustment or object to it. Given that this was not the case, this Department concluded that ZATCA's assessment was flawed in form. This is not affected by the provisions set by legislator, which make ZATCA assessment Decision unappealable by lapse of statutory period for objection, as this matter is established when it is valid and meets all the legally required conditions. Therefore, this Department concluded to cancel the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the case back to it for a substantive review.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form filed by Zakat Payer/ ..... Company, under CR. NO. (.....). TIN No. (.....), against the First Department for Determination of Income Tax Violations and Disputes in Dammam Decision No. (IZD-2021-1060) delivered in Case No. (Z-42091-2021) in connection with Zakat assessment for 2017.

Second: On Merits:

Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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

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Keywords

Zakat – Accounts –Fire – Overlap between the Assessment Timing and Illness of the Communication Officer - Cancellation of the Primary Decision - Case Remand

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (IZD-2021-1100) regarding the zakat assessment for the year 1435 AH, where it is based on the claim that it did not submit its objection to ZATCA within the statutory period due to the overlap between the issuance of the reassessment and the illness of its communications officer, who was responsible for handling text messages. This Department concluded that ZATCA's assessment was flawed in form, rendering it an invalid administrative Decision. This does not affect the fact that the regulation provides for the protection of ZATCA's assessment Decision from being challenged after the statutory objection periods have elapsed. This provision applies only if the Decision is valid and all required legal components are met. Therefore, the Department accepts Zakat Payer's appeal and remands the Case for reconsideration on merits.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal presented on .. /.. /.... AH corresponding to ../../.... AD by ..., National ID No. (...), against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2021-1100), issued in case No. (Z-40551-2021), regarding the zakat assessment for the years 1435 AH, filed by the Appellant against ZATCA. The primary Decision stated the following:

Dismiss the Case in form filed by Plaintiff (...), holder of National ID No (...), against Defendant (ZATCA).

Dissatisfied with this Decision, Zakat Payer (...) submitted a statement of appeal summarized as follows:

Zakat Payer objects to Primary Department's Decision subject matter of appeal, claiming failure to file an objection within the statutory period due to a reason beyond its control, which is a fire at the Head Office on 10/10/1432 AH, including Accounting Department at that time. In addition, Zakat Payer claims failure to file an objection to reassessment within the statutory period due to illness of liaison officer who is responsible for SMS when the assessment was received. Thereupon, Zakat Payer requests overturning Primary Department's Decision subject matter of appeal and hear the Case on merits for the aforementioned reasons.

On … dated../../.. AH corresponding to ../../...., the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the Primary Department and stating that the Zakat Payer did not file an objection within the statutory period, thereby rendering ZATCA's Decision immune from challenge due to the lapse of time, in accordance with Paragraph (1) of Article (2) of Implementing Regulations for Zakat Collection issued in 1438 AH and Article (2) of Rules of Tax Dispute and Violation Committee Procedures. Moreover, the Zakat Payer did not file its objection before the Primary Department within the statutory period, thereby rendering ZATCA's Decision immune from challenge, in accordance with Paragraph (2) of Article (3) of Rules of Tax Dispute and Violation Committee Procedures. ZATCA requested the Department not accept any new requests from the Zakat Payer in accordance with Article (168) of Law of Civil Procedures. Therefore, ZATCA maintains correctness and validity of its actions and requests dismissal of the Zakat Payer's appeal and affirmation of the primary Decision for the aforementioned Grounds.

On … dated../../.. AH corresponding to ../../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

On Merits: Zakat Payer's appeal involves claim that Zakat Payer did not file an objection before ZATCA within the statutory period for a reason attributed to coincidence of reassessment with illness of liaison officer who is responsible for SMS. On the other hand, ZATCA requests dismissing Zakat Payer's appeal and upholding Primary Department's Decision. Upon the Department's review of the Zakat Payer's appeal for the year 1435 AH and examination of the case file, as well as upon review of the assessment letter issued by ZATCA, it became evident that this letter did not meet the formal requirements stipulated by law, as it did not include the reasons for the amendment, which would allow the Zakat Payer to submit a substantiated objection. The mere reference to the amounts added to the zakat base does not, in itself, constitute a reason for amending the Zakat Payer's declaration. Rather, ZATCA must clearly state the reasons upon which it relied in making its amendments, so that the Zakat Payer may either accept the adjustment or object to it. Given that this was not the case, this Department concluded that ZATCA's assessment was flawed in form, rendering it an invalid administrative Decision. This is not affected by the provisions set by legislator, which make ZATCA assessment Decision unappealable by lapse of statutory period for objection, as this matter is established when it is valid and meets all the legally required conditions. Therefore, this Department concluded to cancel the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the case back to it for a substantive review.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept appeal in form filed by Zakat Payer (...), holder of National ID No. (…), TIN (…), against First Department for Determination of Income Tax Violations and Disputes

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in Dammam Decision No (IZD-2021-1100) rendered in Case No. (Z-40551-2021) regarding tax assessment for 1435 AH.

Second: On Merits:

Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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

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Keywords
Zakat – Accounts – Import Variances - External Purchases

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (IZD-2020-183) regarding the zakat assessment for the years 2009 to 2016, where it is based on the claim that, regarding (Import Variances and External Purchases) item, the Zakat Payer objects to the Primary Department's support of ZATCA's action in adding this item to the zakat base, claiming that these goods were paid for to suppliers outside the Kingdom but had not yet arrived by the end of the year. The Department, regarding (Import Variances and External Purchases) item for the years 2009 to 2012, found that ZATCA's assessment was made after the statutory period for making amendments to the Zakat Payer's declaration had passed. For the years 2013 to 2016, the Department found that ZATCA's assessment was flawed in form. This is not affected by the provisions set by legislator, which make ZATCA's assessment Decision unappealable by lapse of statutory period for objection, as this matter is established when the Decision is valid. Therefore, the Department ruled to accept the Zakat Payer's appeal regarding this item for the years 2009 to 2016.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

To consider the appeal presented on ../../.... AH corresponding to ../../.... AD by ..., National ID No. (...), in his capacity as the director of the Appellant Establishment against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2020-183), issued in case No. (Z-6601-2019), regarding the zakat assessment for the years 2009 to 2016, filed by the Appellant against ZATCA. The primary Decision stated the following:

In from: Accept the Case filed by the Plaintiff/ ..... Company, C.R. No. (...), in form.

On Merits:

Dismiss the Plaintiff's/ (...) company objection, CR No. (...) regarding (Import Variances and External Purchases) item.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

The Zakat Payer challenges the appealed primary Decision, claiming that the variances are due to goods for which payment was actually transferred to suppliers outside the Kingdom but had not arrived by the end of the year. The Zakat Payer argues that these goods typically arrive only after the end of the year in which payment was made, explaining

the variance between its external purchases and the customs report. It is not feasible for the payment to be sent to a foreign supplier and for the goods to be manufactured and prepared to arrive within a short period, especially for large orders that typically take longer than six months to reach the Kingdom. Therefore, the Zakat Payer requests the appealed primary Decision be overturned for the aforementioned Grounds.

On … dated../../.. AH corresponding to ../../.... , the Department decided to hold a 10-day e-hearing. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the Primary Department. ZATCA asserts the correctness of its procedure in handling the appealed item. ZATCA compared imports for the years 2011 to 2016 according to customs data with the Zakat Payer's declarations and found that the cost of imports according to the declarations was significantly higher than what was reported in the customs statement. Consequently, ZATCA applied Circular No. (2030) dated 15/04/1430 AH. For the year 2010, since the customs data exceeded the declaration, ZATCA adjusted the external purchase variances by 10% according to the applicable instructions and Circular No. (20309) dated 15/04/1430 AH. ZATCA requests that no new Documents be accepted that were not presented during the examination and objection phase and no new requests from the Zakat Payer be considered based on Article (186) of Law of Civil Procedures. Therefore, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary for the aforementioned reasons.

On … dated../../.. AH Corresponding to ../../...., after reviewing the case file, this Department requested that ZATCA provide the zakat assessments for the Zakat Payer for the years 2013 to 2016 and also requested to provide a record of the date on which it filed its objection against ZATCA regarding the zakat assessments for the years 2013 to 2016. Both parties have since submitted various Documents.

On … dated../../.. AH corresponding to ../../..., having taken cognizance of appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department concluded that the Case has become ripe for adjudication on its merits. Therefore, the Department decided closing pleadings and setting a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, the Zakat Payer's appeal, regarding (Import Variances and External Purchases) item, is based on disputing the Primary Decision's support for ZATCA's action in adding this item to the zakat base. The Zakat Payer claims that the variances arise because the goods were paid for to suppliers outside the Kingdom but had not arrived by the end of the year. ZATCA, on the other hand, insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision for the aforementioned reasons. The Department, upon reviewing the subject of the dispute and for the years 2009 to 2012, found that ZATCA's assessment was conducted after the legally prescribed period for making amendments to the Zakat Payer's declaration, which is five years from the deadline for submitting the same per year. These rules are established to ensure the stability of transactions and to avoid leaving zakat payers in a state of uncertainty without a defined period that would ensure their financial positions are not destabilized, which was confirmed in the Zakat Payer's objection against ZATCA. This does not absolve the Zakat Payer of the religious obligation if they are indeed liable for it; however, it affects the procedural aspect related

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to ZATCA's right to reopen assessments after the expiration of the legally prescribed period. Therefore, the Department concludes that ZATCA's action in making those amendments was incorrect, leading to its Decision to accept the Zakat Payer's appeal and annul the primary Decision.

Regarding the years 2013 to 2016 and after examination of the case file, as well as upon review of the assessment letter issued by ZATCA, it became evident that this letter did not meet the formal requirements stipulated by law, as it did not include the reasons for the amendment regarding the appealed item, which would have allowed the Zakat Payer to submit a substantiated objection. ZATCA must clearly state the reasons upon which it relied in making its amendments, so that the Zakat Payer may either accept the adjustment or object to it. Given that this was not the case and providing reasons is a right of the Zakat Payer, this Department concluded that ZATCA's assessment was flawed in form. This is not affected by the provisions set by legislator, which make ZATCA assessment Decision unappealable by lapse of statutory period for objection, as this matter is established when the Decision is valid and meets formal requirements stipulated by the law. Therefore, this Department concluded to cancel the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the case back to it for a substantive review.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form by the Zakat Payer/ ... company, CR No. (...), TIN No. (...) against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam No. (IZD-2020-183), issued in case number (Z-6601-2019), related to zakat assessment for the years 2009 to 2016.

Second: On Merits:

Regarding (Import Variances and External Purchases) item:

A- Accept the appeal filed by Zakat Payer regarding this item for the years 2009 to 2012 and overturn the Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Dammam, in accordance with the Grounds mentioned herein.

B. Accept the appeal filed by Zakat Payer regarding this item for the years 2013 to 2016 and overturn the Decision taken by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the case back to it for a substantive review, in accordance with the Grounds mentioned herein.

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

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Keywords
Zakat – Accounts – Lack of Technical Knowledge – Exceptional Circumstances – COVID-19 Pandemic – Case Remand

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (IZD-2021-32) regarding the zakat assessment for the year 2016, where it is based on its inability to attend the hearing before the Primary Department due to a lack of technical knowledge and the timing of the hearing coinciding with the COVID-19 pandemic. The Department's review of the primary Decision revealed that the Zakat Payer did not attend the initial hearing, which led the Primary Department to issue its appealed Decision. Additionally, the appealed Decision does not indicate that the Zakat Payer was given an opportunity to submit any evidence or response concerning the formal defense raised by ZATCA. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

To consider the appeal presented on ../../.... Corresponding to ../../.... by/ ..., National ID No. (...), in his capacity as the legal representative of the Appellant Company pursuant to its Articles of Association against the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh No. (ISZR-2020-32), issued in case No. (ZI-10994-2019), regarding the zakat assessment for the year 2016, filed by the Appellant against ZATCA. The primary Decision stated the following:

The objection filed by .... Company [...], C.R No. (...), is rejected in form due to being submitted after the statutory period.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

The Zakat Payer challenges the appealed primary Decision, claiming that it presented its objection to ZATCA within the statutory period, but it only appeared in the system the day after the objection was filed. Additionally, the Zakat Payer cites a lack of technical knowledge that prevented it from presenting its viewpoint before the Primary Department during the hearing, which led ZATCA to reject the objection in form. Therefore, the Zakat Payer requests the appealed primary Decision be overturned for the aforementioned Grounds.

The Department decided to open the pleadings, where ZATCA submitted a reply memorandum dated 02/12/1441 AH corresponding to 22/07/2020 in response to the Zakat

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Payer's appeal, affirming its position previously presented to the Primary Department and noted that the issues raised by the Zakat Payer are consistent with what had been previously submitted and addressed by ZATCA. Accordingly, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision for the aforementioned reasons.

On ....., dated... /.. /...., corresponding to... /.. /..., the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for merits of the case, the Zakat Payer's appeal is based on its inability to attend the hearing before the Primary Department due to a lack of technical knowledge and the timing of the hearing coinciding with the COVID-19 pandemic. ZATCA, on the other hand, requests dismissing Zakat Payer's appeal and upholding the primary Decision. It was found, upon reviewing the primary Decision, that the Zakat Payer did not attend the initial hearing, which led the Primary Department to issue its appealed Decision. Additionally, the appealed Decision does not indicate that the Zakat Payer was given an opportunity to submit any evidence or response concerning the formal defense raised by ZATCA. The Zakat Payer argued before this Department that difficulties, including COVID-19 restrictions, prevented it from submitting its objection within the statutory period. Given that the case was not ready for resolution due to the Zakat Payer's absence from the hearing and the lack of a written objection to address ZATCA's formal defense and to ensure the Zakat Payer's right to appeal on two levels, this Department concludes to accept the Zakat Payer's appeal and cancel the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh remand the case back to it for a substantive review.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form by the Zakat Payer/ ... company, CR No. (...), TIN No. (...) against the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh No. (ISZR-2020-32), issued in case number (ZI-10994-2019), related to zakat assessment for the year 2016.

Second: On Merits:

Accept Zakat Payer's appeal, overturn the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.

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

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Keywords
Zakat - Accounts - Rejection of written Objection - Technical failure in e-portal - Case Remand

Abstract

The Appellant (Zakat Payer) challenges the primary Decision No. (ISR-2020-214) regarding the zakat assessment for the year 2012, where it is based on its inability to submit its objection within the statutory period due to a technical issue with ZATCA's e-portal. The Department found, upon reviewing subject of the dispute and the case file, that the Zakat Payer had paid the undisputed zakat differences within the statutory objection period, indicating that the Zakat Payer sought to submit its objection on time. The Zakat Payer also provided evidence of a technical issue on ZATCA website. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider the appeal presented on ../../.... AH corresponding to /../.. by/ ..., National ID No. (...), in his capacity as the legal representative of the Appellant Company pursuant to its Articles of Association against the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh No. (ISR-2020-214), issued in case No. (Z-3637-2019), regarding the zakat assessment for the year 2012, filed by the Appellant against ZATCA. The primary Decision stated the following:
Dismiss the Plaintiff's/ (... Co.), C.R No. (...), case in form due to the reasons outlined.
Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:
The Zakat Payer challenges the appealed primary Decision, claiming that due to a technical issue with ZATCA website, it was unable to submit its objection within the statutory period. Additionally, ZATCA's staff refused to accept its written objection due to the website malfunction and declined to provide proof of the Zakat Payer's attendance within the statutory objection period. The Primary Department did not address the substantive defense related to the statute of limitations on the assessment. Therefore, the Zakat Payer requests the primary Decision be overturned for the aforementioned Grounds.
The Department decided to open the pleadings, where ZATCA submitted a reply memorandum dated 17/09/1442 AH corresponding to 28/04/2021 in response to the Zakat Payer's appeal, affirming the formal defense presented before the Primary Department, stating that the difference in days between the assessment date and the objection date

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exceeds sixty days. Consequently, the appealed Decision is considered protected and not subject to appeal due to the elapsed period, based on Paragraph (1) of Article (22) of the Implementing Regulations for Zakat Collection issued in 1438 AH and Paragraph (1) of Article (3) of Rules of Tax Dispute and Violation Committee Procedures. ZATCA, regarding the Zakat Payer's claim of sending amendment letters without attaching the assessment, notifies zakat payers of amendments through letters and attaching the assessment on the e-portal. The Zakat Payer claims that ZATCA staff refused to accept its written objection, confirming its knowledge of the assessment, as one cannot object to an unknown matter. ZATCA, concerning the Zakat Payer's claim that ZATCA staff refused to accept its objection in writing, asserts that it has designated employees to serve all zakat payers and assist them either in person or by phone, as per the directives outlined in His Excellency the Governor's Circular No. (45658) dated 12/07/1439 AH. Regarding the Zakat Payer's claim of encountering a technical issue while attempting to record its objection, upon reviewing the attached Documents, it is evident that the objection was handwritten and does not indicate any technical malfunction. Even assuming such a malfunction existed, the Zakat Payer became aware of it on 22/01/2019, leaving approximately 18 days within the statutory period for objection, as the amendment letter was issued on 10/12/2018. This signifies that the technical issue did not impact the lapse of the statutory objection period. Therefore, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision for the aforementioned reasons.

On ....., dated... /.. /... corresponding to .. /.. The Department decided to hold a 10-day e-hearings, so the Zakat Payer presented a bunch of Documents.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As for the merits of case, the Department, after reviewing the case file, notes that the Zakat Payer's appeal is based on failure to present its objection within the statutory period due to a technical issue with ZATCA's e-portal, while ZATCA, on the other hand, insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision. The Department, having considered the dispute and examining the case file, found that the Zakat Payer has paid the undisputed zakat differences within the period specified for objection, which shows that the Zakat Payer sought to submit the objection within the period specified for objection. The Zakat Payer attached a copy indicating the existence of a technical malfunction in ZATCA's website, given the cumulative evidence presented by the Zakat Payer that corroborates its inability to file an objection within the statutory period due to circumstances beyond its control, considering that the primary Decision failed to address the Zakat Payer's excuses as reasons for its failure to object to the zakat assessment within the statutory period, and given the absence of any evidence contradicting the Zakat Payer's claims before this Department, this Department hereby decides to accept the Zakat Payer's appeal, cancel the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, and remand the case back to it for a substantive review.

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In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form by the Zakat Payer/ ... company, CR No. (...), TIN No. (...) against the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh No. (ISR-2020-214), issued in case number (Z-3637-2019), related to zakat assessment for the year 2012.

Second: On Merits:

Accept Zakat Payer's appeal, overturn the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.

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

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Keywords
Zakat - Accounts - Rejection of written Objection - Technical failure in e-portal - Remands the case

Abstract

The Appellant (Zakat Payer) requests that the Primary Decision No. (ISR-2020-209), regarding the zakat assessment for the year 2014 AD be canceled claiming that he couldn't submit his objection within the specified period for the e-portal of ZATCA having a technical glitch. The Department, having considered the dispute and examining the case file, found that the Zakat Payer has paid the undisputed zakat differences within the period specified for objection, which shows that the Zakat Payer sought to submit the objection within the period specified for objection. The Zakat Payer attached a copy indicating the existence of a technical glitch in ZATCA's website. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider appeal filed on ../../... corresponding to /../.. by/ ..., National ID No. (...), in his capacity as the legal representative of the Appellant Company pursuant to its Articles of Association against the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh No. (ISR-2020-209), issued in case No. (Z-3522-2019), regarding the zakat assessment for the year 2014, filed by the Appellant against ZATCA. The primary Decision stated the following:

Dismiss the Plaintiff's/ (... Co.), C.R No. (...), case in form due to the reasons outlined.

Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:

The Zakat Payer challenges the primary Decision claiming that due to a technical glitch in ZATCA's website, he was unable to submit his objection within the prescribed period, and that ZATCA's employees refused to receive his paper objection submitted when ZATCA's website was down, and that ZATCA's employees refused to provide him with proof of attendance within the specified period to submit his objection, and that the primary department did not discuss a material argument related to prescription of period for objection to assessment. Accordingly, the Zakat Payer requests that the primary department's Decision be reversed for the Grounds stated above.

The Department decided to open the pleadings, where ZATCA submitted a reply memorandum dated 17/09/1442 AH corresponding to 28/04/2021 in response to the Zakat

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Payer's appeal, affirming the formal defense presented before the Primary Department, stating that the difference in days between the assessment date and the objection date exceeds sixty days. Consequently, the appealed Decision is considered protected and not subject to appeal due to the elapsed period, based on Paragraph (1) of Article (22) of the Implementing Regulations for Zakat Collection issued in 1438 AH and Paragraph (1) of Article (3) of Rules of Tax Dispute and Violation Committee Procedures. ZATCA, regarding the Zakat Payer's claim of sending amendment letters without attaching the assessment, notifies zakat payers of amendments through letters and attaching the assessment on the e-portal. The Zakat Payer claims that ZATCA staff refused to accept its written objection, confirming its knowledge of the assessment, as one cannot object to an unknown matter. ZATCA, concerning the Zakat Payer's claim that ZATCA staff refused to accept its objection in writing, asserts that it has designated employees to serve all zakat payers and assist them either in person or by phone, as per the directives outlined in His Excellency the Governor's Circular No. (45658) dated 12/07/1439 AH. Regarding the Zakat Payer's claim of encountering a technical issue while attempting to record its objection, upon reviewing the attached Documents, it is evident that the objection was handwritten and does not indicate any technical malfunction. Even assuming such a malfunction existed, the Zakat Payer became aware of it on 22/01/2019, leaving approximately 18 days within the statutory period for objection, as the amendment letter was issued on 10/12/2018. This signifies that the technical issue did not impact the lapse of the statutory objection period. Therefore, ZATCA insists on accuracy and correctness of its procedures and requests dismissing Zakat Payer's appeal and upholding the primary Decision for the aforementioned reasons.

On ....., dated... /.. /... corresponding to .. /.. The Department decided to hold a 10-day e-hearings, so the Zakat Payer presented a bunch of Documents.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As on Merits, the Department, having reviewed the case file, found that the Zakat Payer claims that he was unable to submit his objection within the prescribed period due to a technical glitch in ZATCA's e-portal, while ZATCA maintains that its procedure is valid and sound requesting that the Zakat Payer's appeal be dismissed and the primary department's Decision be upheld. The Department, having considered the dispute and examining the case file, found that the Zakat Payer has paid the undisputed zakat differences within the period specified for objection, which shows that the Zakat Payer sought to submit the objection within the period specified for objection. The Zakat Payer attached a copy indicating the existence of a technical malfunction in ZATCA's website, given the cumulative evidence presented by the Zakat Payer that corroborates its inability to file an objection within the statutory period due to circumstances beyond its control, considering that the primary Decision failed to address the Zakat Payer's excuses as reasons for its failure to object to the zakat assessment within the statutory period, and given the absence of any evidence contradicting the Zakat Payer's claims before this Department, this Department hereby decides to accept the Zakat Payer's appeal, cancel

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the Decision of the First Department for Determination of Income Tax Violations and Disputes in Riyadh, and remand the case back to it for a substantive review.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form by the Zakat Payer/ ... company, CR No. (...), TIN No. (...) against the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh No. (ISR-2020-209), issued in case number (Z-3522-2019), related to zakat assessment for the year 2014.

Second: On Merits: Accept Zakat Payer's appeal, overturn the Decision rendered by the Second Department for Determination of Income Tax Violations and Disputes in Riyadh and remand the Case for reconsideration on merits according to reasons and Grounds stated herein.

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

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-14
Case No. Z-25092-2020

Keywords
Zakat - Accounts - Non-payment of Undisputed Amounts - Remand the case

Abstract

The Appellant (Zakat Payer) requests that the Decision of the primary department No. (IZD-2020-90), regarding the zakat assessment for the year 2014 AD be canceled, arguing that the primary department upheld ZATCA's rejection of his objection submitted within the specified period on Grounds that he hadn't paid the undisputed amounts. The Department, having reviewed the case file, established that the Zakat Payer submitted to the Department Documents indicating ZATCA's rejection of his objection due to the non-payment of the undisputed amount, and where this rejection, if proven, does not fall within the jurisdiction of ZATCA, but rather falls within the jurisdiction of the departments for resolution of tax violations and disputes based on the relevant laws and regulations. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance's Decision No. (2082) of 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on …/../.., corresponding to …/../.., by …, National ID No. ..... in his capacity as the attorney for the Appellant Company under POA No. ....., against the Decision No. (IZD-2020-90) of the First Department for Determination of Income Tax Violations and Disputes in Dammam, delivered in respect of case No. (Z-2202-2019), related to the zakat assessment for the year 2014 AD, filed by the Appellant against ZATCA. The Primary Decision ruled as follows:
Dismiss the case filed by the Plaintiff.....Company, C.R. No.....in form for being submitted after the expiration of the period prescribed by law for objection.
Dissatisfied with this Decision, Zakat Payer (... Company) submitted a statement of appeal summarized as follows:
The Zakat Payer appeals the Decision of the primary department claiming that he was notified of the assessment of 2016 on …/../...., and he immediately proceeded to pay the zakat amount, but he was unable to do so due to ZATCA's requirement that he pays the undisputed amounts in order for the objection to be accepted. Being unable to make the payment for lack of cash, his accounts were frozen by the Saudi Central Bank. The Zakat Payer requested to pay the amount in installments, but ZATCA did accept that. Accordingly, the objection was submitted within the period prescribed by law, but it was not accepted due to the requirement to pay the undisputed amount. Therefore, the Zakat Payer requests that the appealed Decision be nullfified for those Grounds.

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On … dated../../.. AH Corresponding to ../../…, the Department decided to hold a 10-day e-hearings. During that period, ZATCA submitted a reply in which it responded to the Zakat Payer's appeal, maintaining its arguments raised before the primary department, and that the primary department's Decision was consistent with the provisions of Paragraph (1) and Paragraph (4/A) of Article (22) of the Implementing Regulations for Zakat Collection issued in 1438 AH, and Article (2) of the Tax Dispute and Violation Committee Procedures. In conclusion, ZATCA maintained the validity and soundness of its procedure requesting that the Zakat Payer's appeal be rejected and that the primary department's Decision be upheld for the Grounds stated.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As on merits, the Zakat Payer objects to the primary Decision where it upheld ZATCA's rejection of his objection submitted within the period prescribed by law due to the non-payment of the undisputed amounts, while ZATCA claimed that it requests that the Zakat Payer's appeal be dismissed and that the primary department's Decision be upheld. The Department, having considered the Zakat Payer's appeal for the year 2014, the primary Decision and the case file, established that the Zakat Payer has submitted Documents proving that ZATCA rejected his objection due to non-payment of the undisputed amount; and since this rejection, if proven, is not subject to the jurisdiction of ZATCA but rather falls within the jurisdiction of the departments for resolution of tax violations and disputes. Since the submission on objections is a Zakat Payer's right regardless of whether the undisputed amounts were paid or not, and since the appealed Decision, having been reviewed, was found to have disregarded the Documents submitted nor was the Zakat Payer allowed to plead his case in that regard. Therefore, the Department decides to reverse the Decision of primary committee as it didn't fulfill its jurisdiction as to the subject matter of the case making the dispute unsettled as regard to its subject matter, and hence this Department decides to remand the case to the First Department for Determination of Income Tax Violations and Disputes in Dammam to decide upon its subject matter.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal submitted by the Zakat Payer .....Company… Commercial Registration ....., TIN No. ..... against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Dammam, No. (IZD-2020-90) delivered in case No. (Z-2202-2019), related to the Zakat assessment of the year 2014 AD.

Second: On Merits: Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Dammam and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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Appeal Committee for Tax Violations and Disputes

First Appellate Department for Income Tax Violations and Disputes In Riyadh

Decision No. IR-2022-66
Case No. Z-32703-2020

Keywords
Zakat - Accounts - Failure to Submit Documents - Failure to Submit Financial Statements - Failure to Discuss Material Defenses - Remand the Case

Abstract

The Appellant (Zakat Payer) requests that the primary Decision No. (ISR-2020-215), regarding the Zakat assessment for the year 1440 AH be canceled. The Zakat Payer objects to the primary department having upheld ZATCA's procedure that is based on regulations enacted on a date subsequent to the disputed assessment year. The Department, having examined the dispute, and reviewed the Decision of the primary department, and having in mind that a judicial ruling is based on foundations, foremost of which is its Grounds, including the requests and defenses of the parties, and examining and discussing the merits of those requests and defenses to arrive at a well-founded ruling in accordance with established judicial principles. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Order No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

To consider appeal filed on ../../... corresponding to …/././…. National ID No..... in his capacity as Owner of the Appellant Establishment against the Decision No.(ISR-2020-215) of the First Department for Determination of Income Tax Violations and Disputes in Riyadh issued in Case No. (Z-5268-2020) in connection with Zakat assessment for the period (1435-1438 AH), in the Case filed by the Appellant against ZATCA, in which the primary Decision ruled as follows:

Accept in form the case filed by the Plaintiff……., National ID No. ……., in his capacity as the owner of ……., C.R. No. ……., and dismiss it on merits.

Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:

The Zakat Payer objects to the Decision of the primary department subject matter of present appeal claiming that the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2082) of 01/06/1438 AH shall apply to this case rather than the regulations issued by Ministerial Decision No. (2216) of 07/07/1440 AH. However, the Department upheld ZATCA's procedure for estimating zakat based on Article (13) of the Implementing Regulations for Zakat Collection issued by Ministerial Decision No. (2082) dated 01/06/1438 AH, due to the Zakat Payer not submitting any supporting Documents

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and financial statements approved by a licensed chartered accountant. Accordingly, the Zakat Payer requested that the primary Decision be quashed for the Grounds stated above. Upon opening the door for pleadings, ZATCA submitted a reply on 08/08/1442 AH. corresponding to 21/03/2021 AD, in which it responded to the Zakat Payer's appeal, stating that it had made estimate assessment based on paragraph (5) of Article (13) of the Implementing Regulations for Zakat Collection and paragraph (a) and paragraph (b) of Clause 6 and Clause 8 of the same article. Accordingly, ZATCA maintains the validity and soundness of its procedure and requests that the Zakat Payer's appeal be rejected and that the Decision of the primary department be upheld for the Grounds stated above.

On ....., dated... /.. /...., corresponding to... /.. /..., the Department decided holding remote litigation session for (10) days, but the period lapsed without submitting any addition by parties to the appeal.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As on merits, the Department, having reviewed the case file, found that the Zakat Payer appeals against the primary department's Decision to uphold ZATCA's procedure based on regulations issued on a date subsequent to the year of the disputed assessment, while ZATCA maintained the validity and soundness of its procedure and requests that the Zakat Payer's appeal be dismissed and that the Decision of the primary department be upheld. The Department, having examined the subject matter of dispute and reviewed the Decision of the primary department, and mindful that a judicial ruling is based on foundations, foremost of which is its Grounds, including the requests and defenses of the parties, and examining and discussing the merits of those requests and defenses to arrive at a well-founded ruling in accordance with established judicial principles; and since the Grounds for rulings must include an answer to every request or defense raised before the court or department, and deciding upon such submissions shall have the possibility to change the opinion regarding the dispute, otherwise the ruling would be flawed; and since it was established that the appealed Decision didn't discuss material defenses of the Zakat Payer contained in his statement of claims submitted before the primary department, namely the application of the Implementing Regulations for Zakat Collection to his case before the date of its enforcement, which required him to pay a percentage of the profit as charged by ZATCA, as well as the Zakat Payer's defense regarding the overlapping of periods, where he confirmed that only a part of the sales of the third quarter should be included in the period of declaration, and that a part of his revenues are limited to transportation revenues only. Since these defenses were not addressed by the appealed Decision, it is decided that the Decision is defective and invalid. As such, it is held that the dispute is unsettled as regard to its subject matter according to the operative part of Decision and hence the primary department didn't fulfill its jurisdiction as to determining the subject matter of case so as to allow the Zakat Payer to plead his case at the two grades of litigation. Therefore, the Department concludes to reverse the the Decision of the primary department regarding this item and to remand the case to it to re-consider the dispute in light of the Zakat Payer's defenses raised before the primary department.

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In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept in form the appeal submitted by the Zakat Payer ..... Establishment, C.R. No.....…, TIN No..... against the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, number (ISR-2020-215) delivered in case No. (Z-5268-2020) in connection with the zakat assessment for the year 1440 AH.

Second: On Merits:

Accept the Zakat Payer's appeal, cancel the Decision of the Second Department for Determination of Income Tax Violations and Disputes in Riyadh, and remand the case to the primary department to reconsider the same in light of the Zakat Payer's arguments raised before it according to the Facts and Grounds stated in this Decision.

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Keywords

Zakat - Accounts -Employee responsible for receiving letters sick - Remand the case

Abstract

The Appellant (Zakat Payer) requests that the primary department's Decision No. (IZJ-2020-323), regarding the zakat assessment for the years from 2014 to 2017 be nullified claiming that he was unable to receive the assessment letter for sicknes of the employee responsible for receiving letter. The Department, having reviewed the Zakat Payer's appeal and examined the case file including the assessment letter issued by ZATCA regarding the years in issue, determined that the letter did not meet its formal requirements as stipulated by the law, as it didn't include Grounds for the modifications so as to enable the Zakat Payer to submit a reasoned objection. Therefore, the Department accepts the appeal and remands the Case.

Documents:

- Zakat Law promulgated by Royal Decree No. (577/28/17) dated 14/03/1376 AH
- Implementing Regulations of Zakat Law issued by Minister of Finance Resolution No. (2082) dated 01/06/1438 AH

Facts

The Department convened to consider the appeal filed on …/../...., corresponding to …/../....., by Mr...., National ID No. ..... in his capacity as the attorney for the Appellant establishment by virtue of POA No. ..... against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah, No. (IZJ-2020-323) delivered in case No. (Z-8922-2019) in relation to the zakat assessment for the years from 2014 to 2017, filed by the Appellant against ZATCA. The primary Decision ruled as follows:
Accept in form the case filed by the Plaintiff....., (....) in form.
Since Zakat Payer (... Enterprise) dissatisfied with this Decision; therefore, Zakat Payer submitted a statement of appeal summarized as follows:
The Zakat Payer objects to the primary Decision, requesting that his objection be accepted in from for being filed within the period prescribed by law. As for the requirement to submit the objection not beyond sixty days from the date of receipt of the letter, the Zakat Payer claims that he didn't receive the letter within the aforementioned period, given that the employee authorized to receive such letters and respond to them is the chief financial officer of the factory, and he is in a severe medical condition, so he was unable to receive this letter to respond to it within the specified period, arguing that the period of objection is calculated from the date of receipt of the letter, not the date of issue, and accordingly the Zakat Payer requests that the Decision of the appealed primary department be overturned for the Grounds stated above.
On … dated../../.. AH Corresponding to ../../…, the Department decided to hold a 10-day e-hearing. during that period , ZATCA submitted a reply, whereby it responded to the

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Zakat Payer's appeal, confirming its point of view submitted before the primary department, and maintaining the validity of the primary department's Decision, and indicating that the Zakat Payer's arguments in this appeal are the same arguments he raised before and ZATCA responded to. ZATCA requested that the Department do not to accept any new requests from the Zakat Payer based on Article (186) of the Law of Civil Procedures. ZATCA also maintained the validity and integrity of its procedure and requests that the Zakat Payer's appeal be dismissed and that the primary department's Decision be upheld for the Grounds stated above.

On ....., dated... /.. /...., corresponding to... /.. Having reviewed the appeal memorandums and reply thereto, and after reviewing Documents included in Case file, the Department decided that the case was ready for adjudication and issuance of Decision. Therefore, the Department decided to close pleadings and set a date for adjudication.

Grounds

Having taken cognizance of Case Documents and statement of appeal submitted by Zakat Payer, the Department found that conditions for hearing appeal have been fulfilled in form in accordance with the conditions stipulated in relevant laws, regulations and Decisions. This makes the appeal accepted in form for being submitted by a party having capacity and within the prescribed time-limit.

As on Merits, The Zakat Payer's appeal in centered around the claim that he didnt manage to receive the assessment letter for the illness of his competent employee, and ZATCA requested that the Zakat Payer's appeal be dismissed and that the primary department's Decision be upheld. The Department, having reviewed the Zakat Payer's appeal and examined the contents of the case file as well as the assessment letter issued by ZATCA regarding the years in question, established that the letter did not fulfill the relevant formal requirements stipulated by the law, as it did not include the Grounds for the modification, whereby allowing the Zakat Payer to submit a reasoned objection, and that the mere indication of the existence of tax evasion does not in itself constitute a reason for ZATCA's assessment to differ from the Zakat Payer's declaration, as the Grounds for that variatin should be stated by ZATCA so that the Zakat Payer can accept or object to ZATCA's amendment. Therefore, the Department decides that ZATCA's assessment was defective in from, and thus loses the status of a vlaid administrative Decision. The fact that the Decision is protected from appeal due to expiration of the statutory objection period does not affect this conclusion, as such protection applies only when the Decision is valid and complete in all its required elements. Therefore, this Department concludes to annul the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah and return the case for reconsideration on its merits.

In view of the foregoing, and in light of stated reasons, the Department unanimously decided as follows:

Decision

First: Accept the appeal in form by the Zakat Payer/ ... Est, CR No. (...), TIN No. (...) against the Decision of the First Department for Determination of Income Tax Violations and Disputes in Jeddah No. (IZJ-2020-323), issued in case number (Z-8922-2019), related to zakat assessment for the years 2014 to 2017.

Second: On Merits:

Overturn the Decision rendered by the First Department for Determination of Income Tax Violations and Disputes in Jeddah and remand the Case for reconsideration on merits according to Grounds and reasons stated herein.

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تم بحمد الله