

Upholding Accountability in Tax Compliance: A Landmark Appeal Judgment

The National Prosecution Authority (NPA) welcomes the landmark judgment by the High Court in a case that highlights the importance of integrity and accountability in Zambia's tax system. The case, involving Kennedy Likomeno (First Respondent) and Liko Industries & Logistics Company Limited (Second Respondent), revolved around allegations of filing fraudulent tax returns to the Zambia Revenue Authority (ZRA), raising critical issues regarding criminal intent and the standard of proof required in tax offences.

A Case of Fraudulent Tax Returns

This appeal stemmed from the State's challenge of the acquittal of the Respondents by the Kitwe Subordinate Court. Kennedy Likomeno and Liko Industries & Logistics Company Limited were accused of filing false VAT returns, evading their tax obligations and resulting in 40 charges under the Value Added Tax (VAT) Act. At trial, the Respondents opted to remain silent during their defence, and the trial court acquitted them on all counts, citing insufficient evidence.

The State, however, argued that the acquittal was based on an erroneous interpretation of the facts and appealed the decision. The appeal focused on counts related to fraudulent tax returns filed between May 2020 and September 2021, during which the Second Respondent was accused of submitting false information to the ZRA in a deliberate attempt to evade VAT liability. While the trial court had found inconsistencies in the evidence, it ruled that the charges had not been proven beyond a reasonable doubt.

High Court's Decision

On December 16, 2024, the High Court issued a powerful judgment, overturning the trial court's acquittal of Liko Industries & Logistics Company Limited, affirming that the submission of fraudulent tax returns constitutes a criminal offence. The Court made it clear that proving intent is critical in such cases and that filing false returns, even without explicit statutory terms like "knowingly" or "willfully," can be sufficient to establish criminal liability. This judgment strengthens the notion that a state of mind reflecting guilt is essential for criminal responsibility.

The appellate court also criticised the trial court's heavy reliance on third-party invoices and external witnesses, pointing out that the fraudulent tax returns filed through the ZRA's online portal were clear evidence of an intent to deceive. Furthermore, the Court emphasised that the Respondents' silence during the trial, despite overwhelming evidence against them, only reinforced the inference of guilt.

While the High Court found Liko Industries & Logistics Company Limited guilty, it upheld the acquittal of Kennedy Likomeno due to insufficient evidence linking him directly to the offence.

Prosecution's Arguments and the Court's Emphasis on Evidence

In this case, the NPA's arguments played a critical role in the Court's judgment. The prosecution stressed that certain facts raised by the trial court were inconsistent with the evidence presented, arguing that the findings were erroneous and could not reasonably be supported by the record. This included issues like the failure to link the information provided by witnesses to the Respondents' actual tax returns and the lack of investigation into crucial aspects of the case.

Further, the prosecution highlighted how the trial court had mistakenly overlooked significant evidence, including the fraudulent nature of the returns filed via the ZRA portal. The State also emphasised that tax compliance extends beyond technicalities such as the specific date of the alleged offences; as long as the charges are proven within the prescribed legal period, the case remains valid.

Additionally, the prosecution pointed out the Respondents' failure to bring forward evidence that could have supported their claims, including the supposed non-operation of the Second Respondent. These omissions played a key role in the appeal, showing that the burden of proof lay with the defence to demonstrate their case, rather than shifting it onto the prosecution.

Implications for Tax Compliance

This judgment serves as a critical victory in the ongoing battle against tax evasion, which undermines Zambia's economic stability. It reinforces the importance of integrity in financial reporting and the role of the legal system in holding both individuals and corporate entities accountable for their actions. The ruling is a strong reminder that the judicial system will not tolerate fraudulent attempts to undermine public trust.

The NPA remains resolute in its commitment to safeguarding Zambia's financial interests, ensuring that all entities adhere to ethical standards in their financial dealings. This judgment not only strengthens public confidence in Zambia's legal and economic systems but also sets an important precedent for future cases involving tax evasion.

By affirming the diligence of the prosecution and the judiciary's careful interpretation of the law, this case is a vital step toward ensuring transparency and accountability in Zambia's tax landscape. The NPA will continue to

collaborate with stakeholders to promote a culture of compliance, reinforcing the importance of upholding tax laws to support the nation's development.