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S. I. No. 43 of 2021

FEDERAL HIGH COURT**FEDERAL HIGH COURT (FEDERAL INLAND REVENUE SERVICE) PRACTICE DIRECTIONS, 2021**

1st Day of June, 2021

In exercise of the powers conferred on me by Order 57 Rule 3 of the Federal High Court (Civil Procedure) Rules 2019, I, JOHN TERHEMBA TSOHO, The Honourable, The Chief Judge of the Federal High Court hereby make the following Practice Directions for the Federal High Court for matters pertaining to or arising from Tax issues and for the Federal Inland Revenue Service (FIRS).

ORDER I—OBJECTIVES AND APPLICABILITY OF THE PRACTICE DIRECTIONS

These Practice Directions shall—

- (a) save to the extent or as may be directed by the Honourable, The Chief Judge, apply to both Criminal Matters and Civil Causes in relation to Tax issues before the Federal High Court;
- (b) ensure effective case management system and expeditious determination of Tax related matters;
- (c) encourage settlement of Tax debt or Liability between disputing parties;
- (d) provide directions on applications from the FIRS; and
- (e) promote the use of electronic filing and service systems and proceedings in Tax related matters.

ORDER II—PLACE OF COMMENCEMENT

1. An application shall be filed in the Judicial Division from which a claim emanates in conformity with the Civil Procedure Rules of the Court.

2. An application commenced in a wrong Judicial Division shall be dealt with as provided for in the Federal High Court (Civil Procedure) Rules.

ORDER III—MODE OF COMMENCEMENT**(FILING AN APPLICATION FOR INTERIM ORDER)**

1. In an application for an Interim Order of Forfeiture on Immovable property or Freezing of bank account (Post No Debit), the FIRS shall file a Motion Ex-parte accompanied by an Affidavit setting out the facts and a Written Address.

2. The Motion Ex-parte shall be for the following—

(a) Interim Order of Forfeiture of Immovable property ;

(b) Interim Order of Freezing of bank account ;

(c) an Ex-parte Order of Court—

(i) for the FIRS to have access to Tax Payer's books, documents, servers, billing systems, bank accounts including those stored in a computer; in digital, magnetic, optical or electronic form,

(ii) for the FIRS to have access or seal the business premises or other known place of business ;

where the Tax Payer refuses to willingly grant access to the FIRS.

3. The Affidavit in support of the application shall be accompanied by any of the following documents—

(a) a copy of the Notice of Assessment or the Tax Demand Notice served on the Tax Payer.

(b) a copy of the Notice served by FIRS on Tax Payer requesting access to the Tax Payer's books, documents, servers, billing systems, bank accounts, including those stored in a computer, in digital, magnetic, optical or electronic form for the purpose of Tax investigation or Audit.

(c) Warrant of Distraint or Warrant of Access duly executed by the Executive Chairman of the FIRS as provided for in the Federal Inland Revenue Service (Establishment) Act (As Amended).

(d) Brief Written Address.

4. A Judge to whom a Tax related matter has been assigned or before whom such matter comes shall accord priority to it.

5. The Judge—

(a) shall make an Interim Order of Forfeiture of the property to the FIRS on behalf of the Federal Government pending the determination of the Motion on Notice, where the judge is satisfied that the requirements in these Practice Directions have been complied with ;

(b) shall make an Interim Order of Freezing of the bank account of a defaulting Tax Payer pending the determination of the Motion on Notice ; and

(c) may make an Order granting the FIRS leave to enter or seal the business premises or other known place of business of the Tax Payer, pending the determination of the Motion on Notice.

6. Upon the grant of the Interim Order of Forfeiture or Freezing of a bank account by the Court—

(a) the FIRS shall file a Motion on Notice with a Written Address within fourteen (14) days after service of the Interim Order, seeking for an Order Absolute for the immovable property or an Order forfeiting the assessed amount ; and

(b) where the FIRS finds it necessary to apply for extension of time of the Interim Order granted by the Court, it shall apply for an extension before the expiration of the fourteen (14) days.

7. A Motion on Notice shall be supported by an Affidavit setting out the facts thereof, exhibiting a copy of the Interim Order, Written Address and any of the following documents—

(a) a Warrant of Distraint or Warrant of Access duly executed by the Executive Chairman of the FIRS as provided for in the Act ;

(b) evidence of service of the Notice of Assessment and or the Demand Notice on the Respondent ; and

(c) such other document as may be directed by the Court.

8. A party on whom a Motion on Notice has been served in accordance with the preceding Directions, who intends to oppose the said Motion shall file a Counter Affidavit and Written Address within fourteen (14) days of the service of the Motion on the party.

9. Where the Respondent applies for extension of time, the application shall be considered subject to Federal High Court (Civil Procedure) Rules on Default of Appearance.

10. The e-filing provisions as contained in the Federal High Court (Civil Procedure) Rules shall also be applicable to Tax related matters.

ORDER IV—SERVICE OF PROCESSES

1. Service of Court processes and Hearing Notices may be effected by e-mail, WhatsApp or as may be directed by the Court and same shall be deemed as good service.

2. The print-out of same shall be sufficient Proof of Service.

3. Time shall run in accordance with the provisions of the Federal High Court (Civil Procedure) Rules.

ORDER V—MODE OF ENTERING APPEARANCE

1. A Respondent shall within fourteen (14) days after the service of the Court processes mentioned in Order-III (8) of these Practice Directions enter Appearance by delivering to the Registrar, a Respondent's Counter Affidavit and Written Address in support of it.
2. Where the Respondent is not contesting the application, the respondent shall file an application for the leave of Court to pay into the designated bank account, the Tax Debt or Liability in question and request the discharge of the entire application.
3. Where a Respondent intends to challenge an Assessment served on the respondent, shall pay half of the assessed amount in an interest yielding account of the Federal High Court, pending the determination of the application.

ORDER VI—DEFAULT OF APPEARANCE

1. Where on the day of Hearing or on the adjourned date, the Applicant does not appear and is not represented, the application may be struck out in the interest of justice.
2. When an application has been struck out due to Non-appearance of the Applicant, the Court may upon application direct the application to be re-listed on terms.
3. Where a Respondent fails to appear, upon Proof of Service, the Applicant may proceed upon default of appearance as provided for in the appropriate provisions of the Federal High Court (Civil Procedure) Rules.

Citation.

These Practice Directions shall be cited as Federal High Court (Federal Inland Revenue Service) Practice Directions, 2021.

Commencement.

These Practice Directions shall come into effect from the 1st day of June, 2021.

DATED this 31st day of May, 2021.

HON. JUSTICE JOHN TERHEMBA TSOHO, FICMC,
The Honourable
 The Chief Judge Federal High Court of Nigeria