

**IN THE TAX APPEAL TRIBUNAL
IN THE SOUTH-SOUTH ZONE
HOLDEN AT BENIN**

APPEAL NO: TAT/SSZ/008/2019

BETWEEN

UNITED BANK FOR AFRICA PLC

APPELLANT

AND

RIVERS STATE BOARD OF INTERNAL REVENUE

RESPONDENT

MOTION ON NOTICE

**BROUGHT PURSUANT TO ORDER XI RULE 1 OF THE TAX APPEAL TRIBUNAL
(PROCEDURE) RULES 2021; AND THE INHERENT JURISDICTION OF THIS TRIBUNAL**

TAKE NOTICE that this honourable Tribunal will on the 24th day of March 2023 at 10am or soon afterwards hear arguments by counsel on behalf of the Appellant/Applicant (“Applicant”) for the following orders:

- a. **AN ORDER** granting leave to the Applicant to reopen its case and to recall its witness in this appeal to give additional evidence on behalf of the Appellant;
- b. **SUCH FURTHER ORDERS** as this Tribunal may deem fit to make in the circumstances.

Dated this 20th day of March 2023



Babajimi Ayorinde
Samuel Esuga

Olumayowa Oluwole
Appellant/Applicant’s Counsel

The New Practice
49 Raymond Njoku Street,
South-West Ikoyi,
Lagos.

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ON NOTICE TO:

The Respondent
C/o its counsel
O.V. Frank-Briggs
Redwood & Oak
No. 3, Ohaeto Street, D/Line
Port Harcourt
Rivers State.

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AFFIDAVIT IN SUPPORT OF MOTION

I, **Oluwatobi Aluko**, male, Christian and legal practitioner of 49 Raymond Njoku Street, Ikoyi, Lagos, do hereby make oath and state as follows:

1. I am an Associate with The New Practice of 49, Raymond Njoku Street, Ikoyi, Lagos, counsel to the Appellant/Applicant (the "Applicant"), and by virtue of my position and my schedule of duties, I am conversant with the facts and circumstances of this case.
2. On 13th September 2022, the Tribunal discharged the Applicant's witness and the Applicant closed its case after several adjournments by this Tribunal to enable the Respondent cross examine the Applicant's witness.
3. Subsequently, the Respondent filed a motion dated 18th October 2022 by which it sought the Tribunal's leave to recall the Applicant's witness and to open its own case which this Tribunal had earlier closed due to the Respondent's indolent prosecution.
4. On 16th November 2022, this Tribunal granted the Respondent leave to recall the Appellant's witness and to open its own defence.
5. Subsequently and following our review of the appeal, it has become necessary to provide additional documents and evidence so the Tribunal can have a full view of the issues in dispute and properly adjudicate upon this dispute. Accordingly and in line with the rules of this Tribunal, the Appellant needs to seek the leave of the Tribunal to reopen its case.
6. The Applicant has filed its additional witness statement and has served the Respondent with the same.
7. This application will not overreach the Respondent who will have the opportunity to cross examine the Applicant's witness and open its own case.
8. I depose to this affidavit in good faith conscientiously believing the facts to be in accordance with the Oaths Act.



DEPONENT

Sworn to at the Tax Appeal Tribunal Registry,
Benin, this 20th day of March 2023

BEFORE ME

COMMISSIONER FOR OATHS

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BETWEEN

UNITED BANK FOR AFRICA PLC

APPELLANT

AND

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RESPONDENT

**WRITTEN ADDRESS IN SUPPORT OF THE MOTION ON NOTICE
FOR STAY OF EXECUTION OF JUDGMENT**

INTRODUCTION

1. This application is brought pursuant to Order XI Rule 1 of the Tax Appeal Tribunal (Procedure) Rules 2021 and under the inherent jurisdiction of this Tribunal. The application seeks an order of this Tribunal granting leave to the Applicant to reopen its case and to recall its witness in this appeal to give additional evidence on behalf of the Appellant.
2. The application is also supported by an affidavit setting out the grounds for the application which are now incorporated into this written address. The Applicant relies on all the paragraphs of the affidavit.

ISSUES FOR DETERMINATION

Whether the Applicant's prayers should be granted.

ARGUMENT

3. An application by a party for leave to reopen its case and recall its witness is to be granted by the Tribunal after a judicial and judicious consideration of the facts of the case. In **Nebo v FCDA**¹ it was as follows:

An application by a party to reopen an already closed case is an invitation to the Court to exercise its discretion in his favour in which case the Applicant must disclose reasons sufficient to persuade the Court to exercise its discretion in his favour.

4. The Respondent in this appeal sought and obtained the leave of the Tribunal to recall the Appellant's witness. At the point when the Respondent brought its application, the Appellant's witness had given his testimony and the Appellant had closed its case. To enable the Appellant put all the relevant facts before the Tribunal, it is necessary to allow the Appellant reopen its case and recall its witness to provide additional evidence.

¹ Nebo v FCDA (1998) 11 NWLR (574) page 7

CONCLUSION

Based on the above, we urge this Tribunal to grant this application.

Dated this 20th day of March 2023



Babajimi Ayorinde
Samuel Esuga

Olumayowa Oluwole
Appellant/Applicant's Counsel
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