

Case Title and Citation

Bishop Daniel Obinim v. Commissioner-General, Ghana Revenue Authority; Ecobank Ghana Ltd
High Court (Commercial Division), Accra — 13 May 2020
Coram: Doreen G. Boakye-Agyei (Mrs.), J.

Flynote

Tax—Judicial review—Revenue Administration Act, 2016 (Act 915)—Notice of assessment and timelines for objection—Whether failure to object within 30 days precludes challenge—Third- party debtor notice to bank to enforce tax—Natural justice (audi alteram partem)—Curable procedural irregularities—Whether judicial review is appropriate where statutory dispute-resolution procedures exist—Application dismissed.

Procedural Posture

Application for judicial review under Order 55 of the High Court (Civil Procedure) Rules, 2004 (C.I. 47) seeking, among others, declarations and orders to set aside a third-party debtor notice served by the Commissioner-General of the Ghana Revenue Authority (GRA) on Ecobank Ghana Ltd in respect of alleged unpaid taxes of the applicant. The applicant also sought an order compelling the Commissioner-General to determine his tax objection and to serve the decision personally. The application was resisted by the GRA.

Facts

The GRA issued a notice of income tax assessment to the applicant on 15 October 2018 and a subsequent notice of tax due on 15 November 2018, assessing a liability of GHS1,591,797.50 payable by 31 October 2018. A final demand notice followed on 17 June 2019. On 30 July 2019, the applicant lodged what he described as a “notice of tax objection,” asserting that he was a head pastor supported by the church, received no remuneration, and had fulfilled his tax obligations on his private business. He contended that the GRA neither determined his objection nor personally served a decision on him, yet proceeded on 13 February 2020 to issue a third-party debtor notice to Ecobank requiring payment of the assessed amount from funds held for the applicant. He argued that enforcement without a determination violated natural justice and the statutory scheme. The GRA maintained that the applicant was properly assessed and notified; that he failed to object within the statutory 30-day period; and that the final demand notice is not a “tax decision” capable of objection. It further argued that third-party enforcement under Act 915 was lawfully triggered after non-payment.

Issues

1. Whether the GRA breached the rules of natural justice by refusing or failing to determine the applicant’s “tax objection” before enforcing payment.
2. Whether the case was appropriate for the exercise of the High Court’s judicial review jurisdiction in light of the statutory procedures under Act 915.

Held

Application dismissed in its entirety.

Ratio Decidendi

First, under sections 40 to 43 of Act 915, a notice of assessment constitutes a “tax decision.” A taxpayer who is dissatisfied must object within 30 days of notification. The applicant indisputably received the assessment and notice of tax due in October and November 2018 but only reacted on 30 July 2019, well outside the

statutory period, and purportedly in response to a “final demand notice.” A final demand notice is not a tax decision and is not susceptible to objection under section 42. The Commissioner-General was therefore under no legal obligation to determine the purported objection or to serve a decision thereon. On these facts, there was no breach of the *audi alteram partem* rule. Equity aids the vigilant, not the indolent.

Secondly, section 60(1) of Act 915 authorises the Commissioner-General to serve a third-party debtor notice where tax remains unpaid on the due date. Given the valid assessment, proper service, and the applicant’s failure to pay or to lodge a timely objection, the third-party debtor notice to Ecobank was a lawful enforcement step.

Thirdly, judicial review is not concerned with the merits of the tax assessment but with jurisdictional error or breach of natural justice. Where a statute prescribes a special procedure, that route must be followed. Act 915 provides detailed procedures for objection and appeal (including section 44 and Order 54 C.I. 47). The applicant’s failure to invoke those procedures timeously cannot be converted into grounds for judicial review. No jurisdictional error or breach of natural justice was shown.

Obiter

The court emphasised that procedural defects not going to jurisdiction, constitutional compliance, or natural justice will generally be treated as curable irregularities. The availability of statutory appeal mechanisms for tax disputes underscores the exceptional nature of judicial review.

Disposition

Application for judicial review dismissed. No breach of natural justice established; third-party debtor notice lawfully issued; not an appropriate case for the exercise of judicial review powers.

Legal Provisions Considered

- High Court (Civil Procedure) Rules, 2004 (C.I. 47), especially Order 55 (judicial review) and Order 54 (appeals in tax matters).
- Revenue Administration Act, 2016 (Act 915):
 - Section 37: Modes of assessment (self-assessment and Commissioner-General’s assessment).
 - Section 39: Power to adjust assessments.
 - Section 40(1)-(2): Service and contents of notice of assessment.
 - Section 41(1)-(2): “Tax decision” and when made.
 - Section 42: Objection to tax decision within thirty days.
 - Section 43(1)-(2): Determination of objections and duty to give reasons within sixty days.
 - Section 44: Right of appeal to the court within thirty days of decision.
 - Section 60(1): Third-party debtor notices on non-payment by due date.

Key Authorities Cited

- Boyefio v. NTHC Properties (1997–98) 1 GLR 768 SC: Special statutory procedures must be strictly followed.
- Republic v. High Court, Accra; Ex parte Allgate Co. Ltd (2007–2008) SCGLR 1041: Procedural defects and curable irregularities.
- Republic v. High Court, Sekondi; Ex parte Ampong (2011) 2 SCGLR 716: Scope of certiorari—excess/absence of jurisdiction or breach of natural justice.
- Republic v. Chief Registrar of Lands; Ex parte Dzane (2003–2004) 2 SCGLR 955: Prohibition—acting in excess of jurisdiction.

- Accra Hearts of Oak Sporting Club v. Ghana Football Association (1982–83) GLR 111: Audi alteram partem and administrative fairness.
- People's Popular Party v. Attorney-General (1971) 1 GLR 138; Republic v. Minister of Interior; Ex parte Bombelli (1984–86) GLR 205; Republic v. High Court, Accra; Ex parte Salloum (2011) 1 SCGLR 574; Tema Development Corporation & Musa v. Atta Baffour (2005–2006) SCGLR 121.

Notes for Practitioners

Strict compliance with the objection timeline under section 42 is critical; an objection must be lodged within 30 days of service of the assessment, not in response to a final demand. Absent a timely objection, the GRA is entitled to enforce via third-party debtor notices under section 60. Judicial review will not substitute for the statutory objection-and-appeal route unless there is a demonstrable jurisdictional error or breach of natural justice.