IN THE SUPERIOR COURT OF JUDICATURE
IN THE COURT OF APPEAL
ACCRA A.D. 2026

CORAM:
MENSAH-DATSA (MRS.), JA (PRESIDING)
AHMED (MRS), JA
ARMAH-TETTEH, JA

CIVIL APPEAL NO.: H1/22/2025

DATE: 22ND JANUARY, 2026

ORICA GHANA LIMITED - APPELLANT/RESPONDENT

VRS.

THE COMMISSIONER-GENERAL GRA - RESPONDENT/APPELLANT

JUDGMENT

MENSAH-DATSA, JA.

This is an appeal by the Respondent/Appellant (hereafter referred to as Appellant) against the judgment of the High Court, Accra, Commercial Division dated 19th July, 2022 (as an appellate Court) in favour of the Appellant/Respondent (hereafter referred to as Respondent).

The grounds of appeal are stated at page 203 of the Record of Appeal as follows:

a. The Judgment is against the weight of evidence.
b. The decision of the High Court to accept as authentic the disputed photocopied VAT Relief Purchase Orders (VRPOs) is against the weight of evidence.
c. The High Court erred in law by holding that the Respondent erred in apportioning of the Appellant's business income into manufacturing and management service.

Particulars of error of law

i. The High Court misconstrued the meaning and effect of Article 296 (c) of the 1992 Constitution on the exercise of discretionary power.
ii. The High Court misconstrued the meaning and effect of Section 58(4) of the Internal Revenue Act, 2015 (Act 896) on treatment of business activities of a company.
iii. The High Court erred in law by misconstruing the meaning and legal effect of regulation 15(4) (a) (iii) and (b) of the Minerals and Mining Regulations, 2012 (L.I. 2177) on certificates of competency, business licences and permits.
iv. The High Court erred in law by misconstruing the legal effect of Section 34 of the Income Tax Act, 2015 (Act 896) on anti-avoidance rules.
v. The decision of the High Court to accept the photocopies of the VRPOs in dispute is against the weight of evidence adduced.

At the same page 203 of the Record of Appeal the Appellant stated another ground (c) as follows:

The High Court erred in law by holding that the Respondent erred in depriving and/or denying the Appellant location incentive as a manufacturing business.

Particulars of error of law

i. The High Court erred in law by construing Respondent's conduct of apportioning Appellant's business into manufacturing and management service management as recharacterization of its business.

We noted that none of the Counsel for the parties argued this second ground (c) so we deem it abandoned and will not address it.

The reliefs sought by the Respondent/Appellant from this Court are as follows:

i. An order setting aside the entire judgment of the High Court dated 19/07/22.
ii. Any other order(s) as this Honourable Court may deem fit.

The Appellant/Respondent is a limited liability company incorporated under the laws of Ghana and engaged in the business of manufacturing, assembling, and selling of bulk commercial explosives.

The Respondent/Appellant is the head of the Ghana Revenue Authority (GRA), a statutory body responsible for tax administration and revenue collection in Ghana. The GRA's core tasks include the auditing of business activities of companies to ascertain their tax liabilities.

The brief facts of this matter are that sometime in 2017, the Appellant conducted a tax audit of the Respondent's business for the period 2010 to 2016 years of assessment.

The Appellant under the tax laws grants exemptions and/or incentives to certain types of businesses. The Respondent has been in the mining, manufacturing and supply of mining equipment for several years and by its nature of work, is entitled to some reliefs which it enjoys.

The Appellant apportioned the income of the Respondent into income derived from manufacturing activities and income from non-manufacturing activities. According to the Respondent by doing so, the Appellant denied it the full location incentive to which the Respondent was entitled under the Income Tax Act, 2015 (Act 896). It stated that the Appellant also rejected photocopies of VAT Relief Purchase Orders (VRPOs) which had earlier been obtained, verified and initialed by its officer in the course of the same audit to the tune of US$6,620,789.87 on the ground that they were photocopies and that the Commissioner-General was not under obligation to accept photocopies of VRPOs.

The Respondent herein objected to the tax assessment and received an objection decision. It then appealed to the High Court on 15th November 2021 against the objection of the Appellant herein on the following grounds:

i. The Respondent erred in law by denying the Appellant its full entitlement of location incentive under paragraph 3(6) of the First Schedule to the Income Tax Act, 2015 (Act 896).
ii. The Respondent erred in law by apportioning the Appellant's business income into manufacturing and management service contrary to Article 296 (c) of the 1992 Constitution of the Republic of Ghana.

iii. The Respondent erred in law by denying the Appellant the use of Value Added Tax (VAT) credits which had accrued prior to the 2013 year of assessment.

iv. The Respondent erred in law by denying the Appellant the use of its legitimate income tax credits.

v. The Respondent erred in law by rejecting photocopies of the VAT Relief Purchase Orders (VRPOs) contrary to section 91 of the Revenue Administration Act, 2016 (Act 915) and section 166 of the Evidence Act, 1975 (NRCD 323).

The Respondent herein prayed the High Court for the following reliefs:

i. A declaration that the Respondent erred in law by apportioning the Appellant's business income into manufacturing and management service contrary to paragraph 3(6) of the First Schedule to the Income Tax Act, 2015 (Act 896) and Article 296 (c) of the 1992 Constitution of the Republic of Ghana.

ii. A declaration that the Respondent erred in law by depriving and/or denying the Appellant location incentive as a manufacturing business.

iii. A declaration that the Respondent erred in law by depriving the Appellant of Value Added Tax (VAT) credits of US$653,412.69 which had accrued prior to the 2013 year of assessment.

iv. A declaration that the Respondent erred in law by depriving the Appellant of income tax credits of US$591,404.79 arising from overpayment of tax due to the Appellant in the 2010 year of assessment.

v. A declaration that the photocopies of the VAT Relief Purchase Orders (VRPOs) are admissible in accordance with section 91 of the Revenue Administrative Act, 2016 (Act 915) and section 166 of the Evidence Act, 1975 (NRCD 323).

vi. An order directing the Respondent to consider the VAT Relief Purchase Orders (VRPOs) of an amount of US$6,620,789.87 in the computation of the Appellant's tax liability.

vii. An order granting the direct tax credit of US$591,404.79 and indirect tax credit of US$653,412.69 due the Appellant for the tax audit period.

viii. An order for the Respondent to issue a revised tax assessment of the Appellant for the 2010 to 2016 years of assessment taking into consideration all the reliefs granted by this Honourable Court.

ix. An order directing the Respondent to refund any tax credits owing to the Appellants as a result of the revised audit within 90 days from the date of final judgment, failing which the Respondent shall pay interest on any ensuing tax credits.

x. Costs, including Lawyer's fees.

xi. Any other order(s) that the Court may deem fit.

The learned High Court Judge delivered her judgment on the 19th July, 2022 upholding the tax appeal against the Appellant herein. She made no order as to costs.

The Respondent therein being dissatisfied with the said judgment has appealed.

Rule 8 (1) of the Court of Appeal Rules, 1997 (C.I. 19) states that an appeal shall be by way of re-hearing.

The law that appeal is by way of rehearing has been affirmed in several cases including **Mary Tsotso Laryea & 4 Others v. Amarkai Laryea [2018] 123 GMJ 169, Koranteng II & Ors v. Klu [1993-94] 1 GLR 280, Tuakwa v. Bosom [2001-2002] SCGLR 61** and **Gregory v. Tandoh [2010] 28 GMJ 1**.

We will discuss the grounds of appeal in the same order both Counsel for the parties did. Due to the fact that tax matters are technical in nature, we have decided to reproduce a substantial portion of the written submission of both Counsel for the parties to assist in understanding the matter and our decisions.

Ground (b): The decision of the High Court to accept as authentic the disputed photocopied VAT Relief Purchase Orders (VRPOs) is against the weight of evidence.

In arguing this ground of the appeal learned Counsel for the Appellant contended that a review of the VAT returns of the Respondent revealed declarations in respect of relief supplies of VAT. He explained that relief supplies are sales that are generally relieved of VAT through a VRPO for taxpayers within the Mining and Petroleum industry. He asserted that it is the duty of the Respondent to insist that their customers/clients attach VRPOs as a VAT waiver in order that they could be entitled to VAT waiver failing which the Respondent would be made to pay the relevant VAT on the issued invoice. He contended that in this matter, some of the VRPOs could not be validated to activate the waiver hence their rejection. Counsel stated that such supplies are generally classified as Zero-rated, Exempt, Relief or

Standard Rate supplies. He asserted that when the total of relief supplies declared on the VAT returns is not thoroughly confirmed, supply types could be wrongly characterized and it could negatively affect indirect tax payments. He stated that this technique of auditing is crucial to the Appellant as such actions and inactions are usually mechanisms taxpayers use to evade taxes.

Learned Counsel for the Appellant contended that the Relief Supplies declared by the Respondent on the VAT returns were critically vetted and it emerged that the amount of relief supplies declared was more than the amount confirmed. Thus, the excess relief supplies which constituted overstatement of VRPOs were treated as Standard Rate Supplies. He added that the VRPOs that could not be validated were not accepted.

Counsel for the Appellant argued that the second leg of this ground of appeal is premised on the authenticity or otherwise of the submitted photocopies of VRPOs. He quoted Sections 41(1), (6) to (8), and 48(4) (b) of the Value Added Tax Act 2013, (Act 870) as amended. He submitted that the taxpayer is enjoined by law to keep a duplicate copy of the issued tax invoice and not a photocopy of it. Moreover an application for claim of input must be supported by original VAT invoices, indicating the name and VAT registration number of suppliers, which should not be more than six months old. He asserted that the Respondent did not provide all the VRPOs required to fully authenticate the declarations of relief supplies on the VAT returns and its application was beyond the stipulated period of six months so the Appellant had no option than to reject the overstated VRPOs in its final Audit Report. He relied on the case of **Owusu v. The Republic [1972] 2 GLR 262**, quoted Order 21 Rule 12 of the High Court (Civil Procedure) Rules 2004, (C.I. 47), Sections 41(2), 48(11) (a), (b) and (c) of the Value Added Tax Act 2013, (Act 870) and Sections 165, 166 and 167 of the Evidence Act, 1975 (NRCD 323). He submitted that the refusal of the Appellant to accept scanned copies of initialed VRPOs is in line with Section 48(11) (a), (b) and (c) of Act 870.

In his response, learned Counsel for the Respondent contended that there was no ground on the authenticity or otherwise of the photocopied VRPOs before the Court below, neither was the Court invited to make any determination on the authenticity of the photocopied VRPOs. He emphasized that the authenticity of the photocopied VRPOs were never questioned either during the objection process or before the

Court below. He submitted that the VRPO is not a tax invoice as contemplated under Section 41 of Act 870 and regulation 21 of the Value Added Tax Regulations, 2016 (L.I. 2243). He asserted that assuming the erroneous interpretation given to section 41(2) by the Appellant is adopted, the responsibility of retaining a copy does not arise in the case of the Respondent because the Respondent was a recipient of the VRPOs from their customer and not the issuer of the same. He urged the Court to adopt the Respondent's interpretation to the effect that section 41(2) of Act 870 does not apply to the Respondent under the current circumstances. Counsel argued that photocopies constitute "copy" under tax law and also "duplicates" under Section 164 of the Evidence Act,1975 (NRCD 323). He explained that once the invoice or VRPO is an accurate reproduction which is similar or identical to the original, it constitutes a copy of the original under the tax laws and a duplicate under NRCD 323.

Counsel for the Respondent relied on Section 91(1) (a) of Act 915 and Section 26 of NRCD 323 to support his submission that to the extent that the officers of the Appellant obtained and initialed the VRPOs without any reservations, the authenticity of the initialed documents is conclusively presumed. He added that the Appellant also never raised any concerns regarding their authenticity. He submitted that the Appellants assertion that the refusal to accept photocopied VRPOs is to prevent recycling of invoices is unfounded because VRPOs have unique serial numbers so taxpayers cannot present the same VRPO twice.

Relying on the case of **Golden Grace Ltd. v. Takoradi Flour Mills Ltd. [2011] DLSC 2650** learned Counsel for the Respondent argued that failure to admit the photocopies of the VRPOs would be unfair to the Respondent. He stated that the Respondent would be required to pay the face value of the VRPOs despite having complied with the law by dutifully charging VAT and accepting VRPOs in lieu of the payment of the taxes charged.

Learned Counsel for the Respondent contended that the Appellant's emphasis on "original VAT invoice" is misleading because Section 48(1)(a)(ii) of Act 870 requires the possession of a tax invoice to claim an input tax and not an "original" tax invoice as the Appellant seeks to infer. Also, the said Section 48 relates to the claim of input tax which is defined under Section 65 of Act 870 as "tax payable by a taxable person in respect of an acquisition of a taxable supply of goods and services or import". Counsel explained that from the definition of input tax it does not include

VRPO because VRPOs are not acquired as a result of an acquisition of a taxable supply of goods and services but as a result of a supply of goods and services to a person who is exempt from tax. He concluded that Section 48(4)(b) of Act 870 as quoted by the Appellant in reference to the claim of input tax does not affect the Respondent's claim regarding the recognition of VRPOs.

Both Counsel for the parties cited the same cases including **Multichoice Ghana Ltd. v. Internal Revenue Service [2011] 2 SCGLR 783** to affirm that a tax statute is to be construed strictly and nothing is to be implied.

It is trite that a tax can only be imposed where there is a clear and express word for that purpose and that nothing is to be implied.

At page 198 of Vol. 2 of the Record of Appeal, the learned High Court Judge said:

> *"Importantly, Respondent did not refer the Court to any part of Act 870 which defines the copy mentioned in Section 41(2) as meaning duplicate and excluding photocopy.*
>
> *The photocopied VRPOs having met the threshold requirements in the Evidence Act, and the Respondents having not disputed that they had earlier authenticated the originals by initialing same as provided by Section 91(1) (a) and (c) of Act 915, nothing stands in the way of this Court in holding that the Respondent should accept the said VRPO's in its assessment of the Appellant's tax liability."*

We have carefully considered the facts and circumstances of this matter. After evaluating the submissions of both Counsel for the parties which we have already reproduced herein, we are satisfied that the learned High Court Judge's decision to accept the photocopied VAT Relief Purchase Orders (VRPOs) is not against the weight of evidence. Her decision is legally right and we endorse same.

Based on our analysis, this ground of appeal fails.

Ground (c): The High Court erred in law by holding that the Respondent erred in apportioning of the Appellant's business income into manufacturing and management service. The Appellant listed several instances of the error of law.

In arguing the appeal learned Counsel for the Appellant reproduced Paragraph 3(1) and (6) of the First Schedule of Act 896 on location incentive. He stated that the

rebate of 50% was specifically created as an incentive to motivate manufacturing businesses to be located outside of the regional capitals which would in turn create jobs for the youth in the rural community and help check rural-urban drift or migration. Counsel asserted that the Respondent is engaged in providing mining support and quarrying services as an additional business activity. He contended that the Respondent contracted with its client to perform two distinct business activities which cannot be termed inseparable and for which reason the Respondent would describe the provision of services as an integral part of the manufacturing business. He stated that the Respondent's records and other accompanying documentations revealed that the Respondent has two streams of income; income from sale of the manufactured explosives and income from management services (a non-manufacturing activity). Counsel asserted that the Respondent processed the invoices separately, one for manufactured explosives and another for service activity. He argued that the action by the Respondent in separating the invoices defeats the argument that the entire process is inseparable and considered as one process.

Learned Counsel for the Appellant asserted that the Appellant did not deny the Respondent its entitlement to location incentive as a manufacturing business, the Appellant only limited the location incentive to the portion of the chargeable income attributable to the manufacturing business. He explained that the Appellant relied on Part 2, Section 1 (2) (6) of the Third Schedule of Act 592 now repealed and Paragraph 3(6) of Act 896 as amended in assessing the Respondent.

He contended that the Appellant did not err in apportioning the chargeable income of Respondent between manufactured explosives and management services (non-manufactured explosives) and submitted that its action was consistent with the provisions of the tax law.

It was submitted by learned Counsel for the Appellant that the Court below erred in holding that the Appellant did not follow due process in exercising its discretion under Article 296 (a) of the Constitution 1992. He relied on the case of **Republic v. Registrar of High Court; Ex Parte Attorney-General [1982-1983] GLR 407** to invite this Court to overturn the said holding of the Court below.

In his response, learned Counsel for the Respondent argued that by "manufacturing business", the law refers to the nature of the business of the entity and not the

individual activities conducted by the entity. He submitted that while manufacturing business is not defined by Act 896, Section 133 of Act 896 provides that a business includes a trade and the Courts have held that a trade must involve some commercial activity as well as have a counter party. Counsel cited the cases of **Ransom (Inspector of Taxes) v. Higgs [1974] 1 WLR 1594** and **Ensign Tankers (Leasing) Ltd. v. Stokes (Inspector of Taxes) [1992] 1 AC 655** in support of his submissions. He explained that in the conduct of trading in manufactured explosives, the Respondent provides some other services which are integral, ancillary, incidental to or connected to its business, such as transporting the explosives to its customers at a fee. He emphasized that Section 58(4) of Act 896 states that all activities of a company are treated as conducted in the course of a single business of that company. He asserted that the Appellant is confusing chargeable income from a manufacturing business with chargeable income from a manufacturing activity or income from manufacturing. Counsel argued that where there is a clear distinction between the income eligible for specific tax rates, paragraph 3(6) of the First Schedule to Act 896 as amended by Act 902 does not create such a distinction in the income of the manufacturing business. He contended that location inventive is granted to a manufacturing business and not the income of a manufacturing business from manufacturing activity only.

Counsel for the Respondent submitted that the manufacturing of explosives is regulated by the Minerals and Mining Regulations, 2012 (L.I. 2177). He stated that Regulation 15 of L.I. 2177 regulates the issuance of certificates of competency, business licences and permits. He asserted that Regulation 15(4)(a)(iii) and (b) of L.I. 2177 specifically authorizes a holder of a certificate of competency to operate an explosives manufacturing, store, transport and deal commercially with explosives. He argued that it is hard to imagine that in the light of the expression "manufacturing business" the Appellant would imply that the storage and transportation of explosives to customers by an explosives manufacturing business, as operated by the Respondent must be treated separately.

It was contended by learned Counsel for the Respondent that the exercise of the discretion to re-characterize is only warranted by Section 34 of Act 896, by which the Appellant can re-characterize or disregard an arrangement that is entered into or carried out as part of a tax avoidance scheme which is fictitious or does not have substantial economic effect; or whose form does not reflect its substance. He

asserted that in the case of the Respondent's manufacturing business, no charge of fictitious transaction was labelled against it by the Appellant so it is a capricious use of discretion for the Appellant to re-characterize the Respondent's manufacturing business into manufacturing and service management (non-manufacturing activity).

The Appellant's position is that the provision of services such as transportation and delivery by the manufacturing entity does not constitute manufacturing activity so does not fall within the definition of paragraph 3(6) of the First Schedule to Act 896 which relates to chargeable income of a company from a manufacturing business. Counsel for the Appellant emphasized that income derived from the provision of service cannot be treated as income derived from manufacturing. He submitted that if the decision of the trial Court is allowed to stand, it will open the flood gate for other manufacturing companies to avoid payment of the prescribed rate of tax by subsuming other business activities under manufacturing.

The Respondent's case is that it was contracted by its client (Newmont Ghana Company Limited) to supply manufactured explosives for blasting of ore. It was further contracted by the said client to transport the manufactured explosives upon completion to the site of the client and fill the drilled holes with the said explosives at a service fee.

We agree with learned Counsel for the Respondent that it would be inaccurate or improper to limit a manufacturing business to the single activity of manufacturing which is the process of converting raw materials into a finished product when in fact such a business may need to employ other activities, depending on the product it manufactures, for the total realization of its objectives as a manufacturing business.

We are of the opinion that it would be best if the Appellant considers each taxpayer's unique circumstances than a one size fits all approach in carrying out its mandate. We emphasize that our decision in this matter is based on the nature of the business activities carried out by the Respondent herein which may be different from others in the same business. Section 58(4) of Act 896 states that all activities of a company are treated as conducted in the course of a single business of that company.

After evaluating the judgment on appeal, we conclude that:

1. The High Court Judge did not misconstrue the meaning and effect of Article 296 (c) of the 1992 Constitution on the exercise of discretionary power.

2. The High Court Judge did not misconstrue the meaning and effect of Section 58(4) of the Internal Revenue Act, 2015 (Act 896) on treatment of business activities of a company.
3. The High Court Judge did not err in law in construing the meaning and legal effect of regulation 15(4) (a) (iii) and (b) of the Minerals and Mining Regulations, 2012 (L.I. 2177) on certificates of competency, business licences and permits.
4. The High Court Judge did not err in law in construing the legal effect of Section 34 of the Income Tax Act, 2015 (Act 896) on anti-avoidance rules.
5. The decision of the High Court Judge to accept the photocopies of the VRPOs in dispute is not the weight of evidence adduced.

We state that considering the nature of the Respondent's business with the client in issue, the Appellant erred in apportioning of the Respondent's business income into manufacturing and management service.

This ground of appeal fails based on our analysis above.

Ground (a):

We will discuss the first ground of appeal that the judgment is against the weight of evidence, last.

A complaint that a judgment is against the weight of evidence invokes the jurisdiction of this Court under Rule 8(1) of the Court of Appeal Rules, 1997 (C.I. 19) to rehear the matter by evaluating the evidence led and come to a decision, either in support of or against the trial Court's findings and decision. Where the decision is not supported by the evidence adduced, the appellate Court may vary it or make such orders as are appropriate, that the trial Judge ought to have made.

In **Republic v. Conduah, Ex Parte AABA (Substituted by Asmah) [2013-2014] 2 SCGLR 1032,** the Supreme Court held in Holding 2 that:

> *"the effect of an appeal on the ground that "the judgment is against the weight of evidence" was to give jurisdiction to the appellate court to examine the totality of the evidence before it and come to its own decision on the admitted and undisputed facts. In the instant case, the appellant, by that ground of appeal, was implying that there were pieces of evidence on record which, if applied properly or correctly, could have changed the decision in his favour;*

or that certain pieces of evidence had been wrongly applied against him. The onus in such an instance was on the appellant to clearly and properly demonstrate to the appellate court, the lapses in the judgment being appealed against."

There is a rebuttable presumption that a ruling or judgment of a Court of competent jurisdiction is legally right or in accordance with law hence the onus is placed on an Appellant to prove otherwise.

In arguing this ground of the appeal learned Counsel for the Appellant relied on several cases including **Oppong Kofi & Others v. Attibrukusu III [2011] 1 SCGLR 176**, **Agyeiwaa v. P & T Corporation [2007-2008] SCGLR 985**, **Oppong v. Anerfi (2011) 1 SCGLR 556**, **Tema Oil Refinery v. African Automobile Ltd. (2011) 2 SCGLR 709** and **Gregory v. Tandoh iv & Hanson [2010] SCGLR 971.** He contended that the learned High Court Judge erred when she used the purposive approach to define the word "manufacturing". He quoted Regulations 15 (4) (a) (iii) and (b), 207 of the Minerals and Mining Regulations, 2012 (L.I. 2177), the definition of manufacturing used in the International Standard Classification of all Economic Activities, 2020 (ISIC) and submitted that manufacturing by reference to the statute in issue means to produce explosives through a physical or chemical process from a number of precursor substances. He asserted that the moment the chemical transformation of materials is turned into new products, the manufacturing process is completed and any other activities subsequent to the said products constitutes a different set of activities. He submitted that for tax purposes, all activities can be separated. He quoted Section 58(4) of the Income Tax Act, 2015 (Act 896) and Section 92(1) of Act 915. Counsel asserted that the Respondent did not adduce sufficient evidence to show where the Appellant erred in assessing the tax liability of the Respondent. He asserted that the Appellant continuously reviewed the tax liability of the Respondent where sufficient evidence was provided by the Respondent and just caused showed. He emphasized that the Appellant has demonstrated that having the mandate to dispense a fair and just tax administration, it fully complied with the tax laws and all other appropriate laws.

In his response, learned Counsel for the Respondent quoted the case of the **Republic v. Conduah, Ex Parte AABA (Substituted by Asmah) [2013-2014] 2 SCGLR 1032**. He argued that instead of the Appellant discharging its duty of demonstrating

that there were pieces of evidence on record which if this Court considered it would have come to the conclusion that there were some lapses in the judgment of the Court below which otherwise would have changed the decision in its favour, it only asserted that it had always been professional in dealing with the Respondent and that the Court below should not have defined the word "manufacturing" as found in L.I. 2177, a non-fiscal law purposely. He contended that the only evidence supported by the record is that the Appellant wrongly assumed that manufacturing business as used in paragraph 3(6) of the First Schedule to Act 896 was the same as a manufacturing activity, and pursuant to that wrong assumption, proceeded to wrongfully exercise a discretion to re-characterize the business income of the Respondent.

Section 92(1) of Act 915 provides that:

> *"Subject to subsection (2), in proceedings on appeal under section 41 to 45 or for the recovery of tax under a tax law, the burden of proof is on the taxpayer or person making an objection to show compliance with the provisions of the tax law."*

The burden is on the Respondent herein to show just cause and it carried out this duty before the High Court when it appealed against the objection decision of the Appellant. We do not agree with learned Counsel for the Appellant's assertion that the Respondent did not adduce sufficient evidence at the High Court to show where the Appellant erred in assessing the tax liability of the Respondent.

Section 58(4) of the Income Tax Act, 2015 (Act 896) states that subject to this Act, all activities of a company are treated as conducted in the course of a single business of that company.

In her very detailed judgment, the learned High Court Judge explained how she came to her decision. We are satisfied that she discharged her duty using adequate evidence on the record, relying on sound legal principles and binding cases.

It is trite that an appellate Court would only interfere with the exercise of discretion of the Judge of the lower Court where the Court below applied wrong principles or the conclusion reached would work manifest injustice or that the discretion was exercised on wrong or inadequate material.

In **Osei v. Korang [2013] 58 GMJ 1 at 18** Ansah, JSC stated that "the principles upon which an appellate court will set aside the findings of fact by a trial court are well known and summarized in **Koglex Ltd. (No 2) v. Field [2000] SCGLR 175** they are:

i. Where the said findings of the trial court are clearly unsupported by evidence on record; or where the reasons in support of the findings are unsatisfactory: see **Kyiafi v. Wono [1967] GLR 463 at 466;**
ii. Improper application of a principle of evidence: see **Shakur Harihar Buksh v. Shakur Union Parshad (1886) LR 141 A7**; or, where the trial court has failed to draw an irresistible conclusion from the evidence; see **Fofie v. Zanyo [1992] 2 GLR 475 at 490;**
iii. Where the findings are based on a wrong proposition of law; see **Robins v. National Trust Co. Ltd. [1927] AC 515**, wherein it was held that where the finding is so based on an erroneous proposition of law, that if that proposition is corrected, the finding disappears; and
iv. Where the finding is inconsistent with crucial documentary evidence on record …and every appellate court has a duty to make its own independent examination of the record of proceedings."

Applying all the stated legal principles to the matter herein, we find no basis to disturb the erudite judgment of the learned High Court Judge.

The appeal is therefore dismissed. We affirm the judgment of the High Court, Accra, Commercial Division dated 19th July, 2022.

Due to the circumstances of this matter, we make no order as to costs.

(SGD)
GEORGINA MENSAH-DATSA (MRS), JA
(Justice of Appeal)

I agree:

(SGD)
JENNIFER ANNE MYERS AHMED (MRS), JA
(Justice of Appeal)

(SGD)

I also agree: AYITEY ARMAH-TETTEH, JA

(Justice of Appeal)

COUNSEL:

Prof. Abdallah Ali-Nakyea Ph.D Esq. with Benedict Asare Esq. for the Appellant /Respondent.

Joyce N. Ampah Esq. with Cecilia Boateng Esq. for the Respondent/Appellant.