

IN THE SUPERIOR COURT OF JUDICATURE  
IN THE SUPREME COURT  
ACCRA - A.D. 2025

12/2/2025  
2:30 am/pm  
Registrar  
SUPREME COURT OF GHANA

CIVIL APPEAL NO.:

IN THE MATTER OF AN APPEAL AGAINST TAX ASSESSMENT BY THE  
COMMISSIONER-GENERAL

SEADRILL GHANA OPERATIONS LIMITED  
Plot B2A, Off Agostino Neto Road  
Airport Residential Area  
Accra

APPELLANT/RESPONDENT/  
APPELLANT/APPELLANT

VERSUS

THE COMMISSIONER-GENERAL  
Ghana Revenue Authority  
Starlets 91 Road  
Accra Sports Stadium  
Accra

RESPONDENT/APPLICANT/  
RESPONDENT/RESPONDENT

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APPELLANT'S STATEMENT OF CASE

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## LIST OF AUTHORITIES

### Cases Cited

1. Abu Ramadan & Nimako (No. 3) v. Electoral Commission & Attorney-General (No. 3) [2015-2016] 1 SCGLR 77.
2. Ahumah Ocansey v. The Electoral Commission and Centre for Human Rights & Civil Liberties v. The Attorney-General & Another [2010] 1 SCGLR 575.
3. Amidu (No. 3) v. Attorney-General, Waterville Holdings (BVI) Ltd & Woyome (No.2) [2013-2014] 1 SCGLR 606.
4. Essiem v. The Republic [1993-1994] 1 GLR 457.
5. Halle & Sons SA v. Bank of Ghana & Warm Weather Ent. Ltd [2011] 1 SCGLR 378.
6. NDK v. Ahaman Enterprises Ltd and Others (Suit No. J7/4/2016) delivered by the Supreme Court on 13<sup>th</sup> June 2016.
7. Nii Kojo Danso II v. Lands Commission & 2 Others (Joshua Quarshie - Applicant) [2017-2018] 2 SCLRG 880.
8. Occupy Ghana v. The Attorney-General [2017-2018] 2 SCLRG 527.
9. Sabbah (No.2) v. The Republic [2015-2016] 1 SCGLR 402.

## **Enactments Cited**

1. 1992 Constitution of Ghana
2. Revenue Administration Act, 2016 (Act 915)

## **Textbooks**

Black's Law Dictionary, 9<sup>th</sup> Edition.

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## APPELLANT'S STATEMENT OF CASE

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### A. INTRODUCTION

1. My Lords, we file this Statement of Case for and on behalf of the Appellant/ Respondent/ Appellant/ Appellant (the “Appellant”) in support of its appeal filed on 17<sup>th</sup> July 2024 against the Judgment of the Court of Appeal dated 16<sup>th</sup> November 2023.
2. The instant appeal was filed pursuant to the special leave of this Honourable Court dated 10<sup>th</sup> July 2024.
3. The Appellant seeks this Honourable Court to set aside the Court of Appeal’s judgment and restore the Appellant’s tax appeal filed on 8<sup>th</sup> November 2021.
4. My Lords, the Court of Appeal’s judgment is found on **pages 91 to 112 of Volume 4 of the Record of Appeal**, and the Notice of Appeal against the Court of Appeal’s judgment is found on **pages 115 to 120 of Volume 4 of the Record of Appeal**.

### B. SUMMARY OF FACTS

5. On 10<sup>th</sup> March 2006, Tullow Ghana Limited (“Tullow”) and its JV Partners entered into a Petroleum Agreement with the Government of the Republic of Ghana and the Ghana National Petroleum Corporation (the “Petroleum Agreement”).
6. Pursuant to the Petroleum Agreement, Tullow awarded a subcontract to the Appellant, under which the Appellant was

required to provide drilling unit and associated drilling services for Tullow.

7. The Respondent/Applicant/Respondent/Respondent (the “Respondent”) conducted a tax audit on the Appellant for the years 2012 to 2018 as part of the routine activities of the Audit Division of the Large Taxpayer Office.
8. The Respondent, by a tax audit report dated 8<sup>th</sup> November 2019, assessed a tax liability against the Appellant in the sum of USD 305,606,164.149 (the “First Assessment”).
9. Dissatisfied with the First Assessment, the Appellant lodged an objection to the First Assessment by a letter dated 11<sup>th</sup> December 2019 (the “First Objection”).
10. As a precondition for the Respondent to entertain the First Objection, the tax law required the Appellant to pay 30% of the tax in dispute to the Respondent.
11. However, the Respondent exercised its discretion to vary this requirement and allowed the Appellant to pay USD 12,500,000.00 (the “Objection Deposit”).
12. In response to the First Objection, the Respondent, by a letter dated 8<sup>th</sup> July 2020, adjusted the First Assessment, resulting in reduction of the Appellant’s assessed tax liability to USD 22,722,849.35 (inclusive of the Objection Deposit) (the “First Objection Decision”).
13. The Appellant, by a letter dated 28<sup>th</sup> July 2020, objected against the First Objection Decision (the “Second Objection”).

14. In response to the Second Objection, the Respondent, by a letter dated 1<sup>st</sup> December 2020, adjusted the Appellant's assessed tax liability, resulting in a reduction from USD 22,722,849.35 to USD 17,948,152.65 (inclusive of the Objection Deposit) (the **"Second Objection Decision"**).
15. The Appellant, being of the view that the Second Objection Decision still failed to consider some issues it had previously raised, by a letter dated 30<sup>th</sup> December 2020, objected to the Second Objection Decision (the **"Third Objection"**).
16. In response to the Third Objection and by a letter dated 24<sup>th</sup> March 2021, the Respondent disallowed the Third Objection (the **"Third Objection Decision"**).
17. The Respondent, as allowed by law, further examined the Third Objection and by a letter dated 8<sup>th</sup> October 2021 issued another decision on the Third Objection (the **"Final Objection Decision"**).
18. The Appellant, dissatisfied with the Final Objection Decision, appealed against the Final Objection Decision to the High Court on 8<sup>th</sup> November 2021.
19. On 23<sup>rd</sup> November 2021, the Respondent applied to the High Court for an order to strike out the Appellant's appeal as filed out of time.
20. On 5<sup>th</sup> April 2022, the High Court struck out the Appellant's appeal on the ground that the appeal was filed out of time.
21. The Appellant appealed against the High Court's decision to the Court of Appeal.

22. On 16<sup>th</sup> November 2023 the Court of Appeal dismissed the Appellant's appeal (the "Court of Appeal's Decision").

23. The instant appeal is against the Court of Appeal's Decision.

**C. GROUNDS OF APPEAL**

24. My Lords, in this Statement of Case, we shall address this Honourable Court on three (3) grounds of appeal.

I. The Court of Appeal erred in holding that the Respondent's letter dated 1<sup>st</sup> December 2020 (the "1<sup>st</sup> December 2020 Letter") is not a tax decision that can be objected to.

**PARTICULARS OF ERROR**

- (a) The Court of Appeal should have held that an adjusted tax assessment is a tax decision that can be objected to.
- (b) The Court of Appeal should have held that the 1<sup>st</sup> December 2020 letter is an adjusted tax assessment.
- (c) The Court of Appeal should have held that since the 1<sup>st</sup> December 2020 Letter is an adjusted tax assessment, the 1<sup>st</sup> December 2020 Letter qualified as a tax decision that can be objected to by the Appellant.

- II. The Court of Appeal erred in holding that the Appellant's letter of 30<sup>th</sup> December 2020 (the "30<sup>th</sup> December 2020 Letter") is not an objection to a tax decision.

PARTICULARS OF ERROR

- (a) The Court of Appeal should have held that compliance with Section 42(5) of the Revenue Administration Act 2016 (Act 915) is not a condition precedent for the 30<sup>th</sup> December 2020 Letter to qualify as an objection to a tax decision.
- (b) The Court of Appeal should have held that without an objection to a tax decision, there can be no objection decision.
- (c) The Court of Appeal should have held that once the 1<sup>st</sup> December 2020 Letter is an objection decision, the Appellant's letter of 28<sup>th</sup> July 2020 (the "Second Objection") is an objection to a tax decision.
- (d) The Court of Appeal should have held that once the Second Objection is an objection to a tax decision, the 30<sup>th</sup> December 2020 Letter is an objection to a tax decision.
- (e) The Court of Appeal failed to consider that the Respondent admitted in its letter dated 8<sup>th</sup> October 2021 that the 30<sup>th</sup> December 2020 Letter is an objection to a tax decision.

III. The Court of Appeal erred in holding that the Respondent's letter of 8<sup>th</sup> October 2021 is not an objection decision.

**PARTICULARS OF ERROR**

- (a) The Court of Appeal should have held that the 1<sup>st</sup> December 2020 Letter is a tax decision.
- (b) The Court of Appeal should have held that the 30<sup>th</sup> December 2020 Letter is an objection to the 1<sup>st</sup> December 2020 Letter.
- (c) The Court of Appeal should have held that the Respondent's letter of 8<sup>th</sup> October 2021 is an objection decision on the 30<sup>th</sup> December 2020 letter.

**D. LEGAL ARGUMENTS AND AUTHORITIES**

Ground (I): The Court of Appeal erred in holding that the Respondent's letter dated 1<sup>st</sup> December 2020 (the "1<sup>st</sup> December 2020 Letter") is not a tax decision that can be objected to.

- 25. My Lords, we submit that the Respondent's 1<sup>st</sup> December 2020 letter (i.e., the **Second Objection Decision**) is a tax decision that can be objected to.
- 26. We shall advance four (4) arguments in support of this submission.
- 27. **First, we submit that the Court of Appeal should have held that an adjusted tax assessment is a tax decision that can be objected to.**
- 28. An objection is made against a tax decision.

29. This is supported by Section 42(1) of the Revenue Administration Act, 2016 (Act 915) as follows:

Subject to a tax law to the contrary, a person who is dissatisfied with a tax decision that directly affects that person may lodge an objection to the decision with the CommissionerGeneral within thirty days of being notified of the tax decision.

30. A tax decision is defined in Section 41(1) of the Revenue Administration Act, 2016 (Act 915) as “a decision made by the Commissioner-General under a tax law, including an assessment or omission...”

31. An adjusted tax assessment is a decision made by the Commissioner-General under a tax law, hence, a tax decision.

32. The following statutory provisions support this.

33. Section 37(3) of the Revenue Administration Act, 2016 (Act 915) provides that:

The Commissioner-General may adjust an assessment.

34. Section 108 of the Revenue Administration Act, 2016 (Act 915) defines adjusted assessment in the terms below:

Adjusted assessment means an assessment adjusted under section 39.

35. Section 39 of the Revenue Administration Act, 2016 (Act 915) provides as follows:

- (1) The Commissioner-General may adjust an assessment in a manner that ensures that the taxpayer is liable for the correct amount of tax in the circumstances to which the assessment relates.
- (2) The Commissioner-General shall use best judgement and information reasonably available in making an adjusted assessment.
- (3) The Commissioner-General shall not adjust an assessment that has been adjusted pursuant to a decision of a court unless the decision is vacated.
- (4) An assessment ceases to have effect to the extent to which it is adjusted.

36. Section 37(5)(b)(ii) of the Revenue Administration Act, 2016 (Act 915) further provides that:

Subject to subsection (4), the power of the Commissioner-General to make an adjusted assessment expires six years from the date on which the Commissioner-General serves the notice of assessment on the taxpayer where any other original assessment is adjusted.

37. Section 37(6) of the Revenue Administration Act, 2016 (Act 915) also provides that:

An assessment made under this section [i.e., under section 37] is treated as an assessment made under the tax law that charges the person or subject matter assessed.

38. Section 42(1) of the Revenue Administration Act, 2016 (Act 915) gives a taxpayer the right to object to any decision that qualifies as a tax decision under Act 915.
39. So, even if the Respondent on its own (without an objection) adjusts a tax assessment, the Revenue Administration Act, 2016 (Act 915) treats the adjusted tax assessment as a tax decision. Being a tax decision, Section 42(1) of the Revenue Administration Act, 2016 (Act 915) confers right on a taxpayer to object to the adjusted tax assessment.
40. Accordingly, both an adjusted tax assessment made pursuant to an objection and an adjusted tax assessment made without an objection all qualify as a tax decision, hence, subject to objection under Section 42(1) of the Revenue Administration Act, 2016 (Act 915).
41. Section 42(1) of the Revenue Administration Act, 2016 (Act 915) does not differentiate between tax adjustments made without objection and tax adjustments made with objection, hence, both tax adjustments are tax decisions that come within the remit of objections under Section 42(1) of Act 915.
42. **Second, we submit that the 1<sup>st</sup> December 2020 letter (i.e., the Second Objection Decision) is an adjusted tax assessment.**
43. The above statutory provisions establish that an adjusted tax assessment is an assessment that is varied in amount to ensure the correct amount of tax is paid.

44. Since the Second Objection Decision reduced the tax liability in the First Objection Decision, the Second Objection Decision is an adjusted tax assessment.
45. Third, since the Second Objection Decision is an adjusted tax assessment, the Second Objection Decision qualifies as a tax decision that can be objected to.
46. We have earlier established that an adjusted tax assessment is a tax decision.
47. We have further established that the Second Objection Decision is an adjusted tax assessment.
48. Accordingly, the Second Objection Decision qualifies as a tax decision that can be objected to.
49. Fourth, an objection decision that adjusts a tax assessment is a tax decision that can be objected to.
50. Section 42(1) and (9) of the Revenue Administration Act, 2016 (Act 915) provides as follows:
- (1) Subject to a tax law to the contrary, a person who is dissatisfied with a tax decision that directly affects that person may lodge an objection to the decision with the Commissioner General within thirty days of being notified of the tax decision.
- (9) In this section, “tax decision” means the tax decision objected to, as may have been amended by an objection decision.

51. Section 42(9) of the Revenue Administration Act, 2016 (Act 915) establishes that an objection decision that adjusts a tax assessment (either in whole or in part) is a tax decision that can be the subject of an objection under section 42(1) of the said Act.

52. Seeing as the Second Objection Decision adjusted a tax assessment, the Second Objection Decision is a tax decision that can be objected to.

**Ground (II): The Learned Judge erred in holding that the Appellant’s letter of 30<sup>th</sup> December 2020 (the “30<sup>th</sup> December 2020 Letter”) is not an objection to a tax decision.**

53. My Lords, we submit that the Court of Appeal erred in holding that the Appellant’s 30<sup>th</sup> December 2020 Letter (i.e., the Third Objection) is not an objection to a tax decision.

54. We will advance five (5) arguments in support of this submission.

55. **First, we submit that the Court of Appeal should have held that payment of objection deposit under Section 42(5) of the Revenue Administration Act, 2016 (Act 915) was not a condition precedent for the Appellant making the Third Objection.**

56. Section 42(5) and 42(6) of the Revenue Administration Act, 2016 (Act 915) provides that:

**(5) An objection against a tax decision shall not be entertained unless the person has:**

(a) in the case of import duties and taxes, paid all outstanding taxes including the full amount of the tax in dispute; and

(b) in the case of other taxes, paid all outstanding taxes including thirty percent of the tax in dispute.

(6) Despite subsection (5) the Commissioner-General may waive, vary or suspend the requirements of subsection (5) pending the determination of the objection or take any other action that the Commissioner- General considers appropriate including the deposit of security.

57. My Lords, the Appellant paid an objection deposit leading to the issuance of the First Objection Decision. So, there is no dispute regarding the payment of objection deposit in accordance with Section 42(5) of the Revenue Administration Act, 2016 (Act 915).

58. The Court of Appeal, however, held that the Appellant ought to have paid an additional objection deposit before the Respondent could determine the Second Objection and the Third Objection.

59. The Court of Appeal held at pages 18 and 20 of its judgment (found on pages 108 and 110 of Volume 4 of the Record of Appeal) that:

... once the amended objection decision becomes a tax decision the Appellant would have been mandated under Section 42(5) of Act 915 to pay 30% of the tax in dispute as the objection deposit... There is no evidence on record that the Appellant paid 30% of the tax in dispute upon submission of its letter dated 28<sup>th</sup> July 2020 ... before receiving the amended decision on 1<sup>st</sup> December 2020. Neither is there any evidence that the

Appellant paid 30% of the disputed tax upon submission of the 30<sup>th</sup> December 2020 letter ... It is also our considered view that the Appellant by arguing that both the 28<sup>th</sup> July 2020 and the 30<sup>th</sup> December 2020 letters are objections to tax decisions then it must have of necessity followed the requirements of section 42(5) and (6) of Act 915

60. My Lords, we submit that the Court of Appeal failed to appreciate that the payment of an objection deposit is merely a condition precedent for the Respondent to entertain an objection to a tax decision.
61. So, once the objection is successfully lodged, the Appellant is not legally required to pay any additional objection deposit for the Respondent to correct erroneous tax assessment by way of adjustment.
62. My Lords, we say so because Section 39(1) and (2) of the Revenue Administration Act, 2016 (Act 915) is very instructive on the purpose of tax adjustment.
63. Section 39(1) and (2) of the Revenue administration Act, 2016 (Act 915) provides that:
  - (1) The Commissioner-General may adjust an assessment in a manner that ensures that the taxpayer is liable for the correct amount of tax in the circumstances to which the assessment relates.
  - (2) The Commissioner-General shall use best judgement and information reasonably available in making an adjusted assessment.

64. My Lords, Section 70(5) of the Revenue Administration Act, 2016 (Act 915) defines the correct amount of tax as follows:

Correct amount of tax means the actual income tax payable by the taxpayer for the year of assessment under the Income Tax Act, 2015 (Act 896).

65. Again, we submit that before an adjusted tax assessment can be further adjusted as contemplated by the tax enactments, the taxpayer is not legally required to pay any additional objection deposit.

66. This is because the initial objection deposit serves as the prerequisite for the Respondent to entertain the taxpayer's objection, and no further deposit is mandated for any subsequent adjustments to correct an erroneous assessment.

67. Assuming without admitting that the Appellant was required to pay additional objection deposits before the Respondent entertains the Second Objection and the Third Objection, we submit that the Respondent should be deemed to have waived the payment of objection deposits in accordance with Section 42(6) of the Revenue Administration Act, 2016 (Act 915).

68. My Lords, not only did the Respondent accept the Appellant's Second Objection and Third Objection without demanding the payment of objection deposit but also considered the objections and issued decisions on them.

69. We, therefore, submit that it will be unjust to hold that the Respondent's failure to demand additional objection deposits from the Appellant before considering the Second Objection and Third

Objection and issuing objection decisions does not make the said objections to qualify as objections.

70. Second, we submit that there can be no objection decision without a tax objection.

71. My Lords, an objection decision is a formal determination made by the Respondent after reviewing a taxpayer's objection to a tax assessment.

72. Section 43 of the Revenue Administration Act, 2016 (Act 915) provides as follows:

(1) After consideration of an objection, the Commissioner-General may vary the tax decision in whole or in part or disallow the objection.

(2) The Commissioner-General shall, within sixty days of receipt of an objection, serve the objector with a notice of the decision including the reasons for the decision.

(3) Where the Commissioner-General does not serve the person with notice of the decision within sixty days, the person may, by notice in writing to the Commissioner-General, elect to treat the Commissioner-General as having made a decision to disallow the objection.

(4) A decision is made in respect of an objection.

(a) on the date the person is served with notice of the decision; or

(b) if a person makes an election under subsection (3), thirty days from the date the person files the election with the Commissioner-General.

73. In effect, an objection to tax assessment precedes the making of an objection decision.

74. Accordingly, we submit that the Court of Appeal should have held that without an objection to a tax decision, there can be no objection decision.

75. Third, flowing from our second argument, we submit that the Court of Appeal should have held that the Appellant's letter of 28<sup>th</sup> July 2020 (i.e., Second Objection) was an objection, having held that the Respondent's letter of 1<sup>st</sup> December 2020 (i.e., the Second Objection Decision) is an objection decision.

76. My Lords, the Court of Appeal held on the last paragraph of page 22 of its judgment (found on page 112 of Volume 4 of the Record of Appeal) as follows.

The objection decision was the Respondent's letter dated 1<sup>st</sup> December 2020. This was served on the Appellant on 1<sup>st</sup> December 2020, which instead of filing an appeal as provided in Section 44 of the Revenue Administration Act, 2016 (Act 915) and Order 54 of Rules 1 and 2 of the High Court (Civil Procedure) Rules, 2004 within thirty (30) days of receipt of the decision, rather requested a review of the objection decision.

77. My Lords, since a taxpayer's objection precedes the Respondent's issuance of an objection decision, we submit that the Court of Appeal erred when it held that the Second Objection Decision was

an objection decision, yet, held that the Second Objection leading to the making of the Second Objection Decision was not an objection.

78. Fourth, we submit that the Court of Appeal should have held that once the Second Objection is an objection to a tax decision, the Appellant's letter dated 30<sup>th</sup> December 2020 (i.e. Third Objection), is an objection to a tax decision.

79. My Lords, we submit that if the Appellant:

- (a) Lodged an objection to the Respondent's tax assessment, resulting in the Respondent issuing the First Objection Decision; and
- (b) The Appellant subsequently lodged a Second Objection, prompting the Respondent to issue a Second Objection Decision; and
- (c) Then the Appellant again lodged a Third Objection, following which the Respondent issued a Third Objection Decision; and subsequently the Final Objection Decision,
- (d) It would be logically inconsistent for the Court of Appeal to hold that while the First Objection Decision and the Second Objection Decision qualify as a tax decision, the Appellant could not validly lodge its Third Objection.
- (e) Thus, since the Second Objection qualifies as an objection to a tax decision, the resulting Second Objection Decision (with the same nature as the First Objection Decision) must also be

a tax decision forming the basis for the Appellant to lodge the Third Objection.

80. My Lords, we accordingly submit that the Court of Appeal should have held that once the Second Objection is an objection to a tax decision, the Third Objection is also an objection to a tax decision.

81. Fifth, we submit that the Respondent admitted in its letter of 8<sup>th</sup> October 2021 (i.e., the Final Objection Decision), that the Third Objection is an objection to its Second Objection Decision.

82. My Lords, in the Final Objection Decision, the Respondent noted at paragraph 2, Bullet point 2 and 5 (found on pages 206 and 207 of Volume 2 of the Record of Appeal) as follows.

*We have examined your appeal in accordance with the relevant provisions of the tax laws and wish to respond as follows ... After consideration of your objection [sic] application dated 30<sup>th</sup> December 2022, the Commissioner-General made an objection decision pursuant to section 43 of the Revenue Administration Act, 2018 (Act 915) and communicated same to you via letter dated December 1, 2020... We wish to reiterate that we are unable to grant your request and that the objection decision communicated to you through the Head, Petroleum Unit, LTO via letter dated December 1, 2020 is final and still stands.*

83. My Lords, the Final Objection Decision is a clear admission that the Respondent decided on the Third Objection raised by the Appellant by disallowing same.

84. Under Section 43(1) of the Revenue Administration Act, 2016 (Act 915), the Respondent's decision includes disallowing objections raised by the taxpayer.

85. Section 43(1) of the Revenue Administration Act, 2016 (Act 915) provides as follows.

After consideration of an objection, the Commissioner-General may vary the tax decision in whole or in part or disallow the objection.

86. We, therefore, submit that the Court of Appeal should have held that the Third Objection was an objection to a tax decision.

**Ground (III): The Court of Appeal erred in holding that the Respondent's letter of 8<sup>th</sup> October 2021 is not an objection decision.**

87. My Lords, we submit that the Court of Appeal was wrong when it held that the Respondent's 8<sup>th</sup> October 2021 Letter (i.e., the **Final Objection Decision**) is not an objection decision.

88. We will advance three (3) main arguments in support of this submission.

89. First, we submit that the 1<sup>st</sup> December 2020 Letter (i.e., the **Second Objection Decision**) is a tax decision.

90. We have argued this point at length in Ground (I) of the Appeal and will not belabour this Honourable Court on same.

91. Second, we submit that the 30<sup>th</sup> December 2020 Letter (i.e., the Third Objection) is an objection to the 1<sup>st</sup> December 2020 Letter (i.e., the Second Objection Decision).
92. My Lords, Section 42 of the Revenue Administration Act, 2016 (Act 915) confers the statutory right to object to a tax decision on taxpayers if they are dissatisfied with the Respondent's tax decision.
93. Section 42(1) of the Revenue Administration Act, 2016 (Act 915) provides that:
- Subject to a tax law to the contrary, a person who is dissatisfied with a tax decision that directly affects that person may lodge an objection to the decision with the Commissioner-General within thirty days of being notified of the tax decision.
94. Section 42(2), (3) and (8) of the Revenue Administration Act, 2016 (Act 915) clearly outlines the requirements for making a valid objection as follows:
- (a) It must be in writing
  - (b) It must state the precise grounds of the objection.
  - (c) It must be lodged within 30 days.
95. Nowhere in the Revenue Administration Act, 2016 (Act 915) is it provided, either expressly or impliedly, that only one objection to tax decision is permitted.

96. But a reading of the Revenue Administration Act, 2016 (Act 915) will show that an adjusted tax assessment may be further amended or adjusted.

97. Thus, in Section 42(9) of the Revenue Administration, 2016 (Act 915), it is provided that.

In this section, “tax decision” means the tax decision objected to, as may have been amended by an objection decision.

98. My Lords, the above statutory provision suggests that an adjusted tax assessment may be further amended or adjusted.

99. We submit that the Court of Appeal got this right when it held on page 22 of its judgment (found on page 112 of Volume 4 of the Record of Appeal) that the Second Objection decision is a tax decision.

100. Given that the Second Objection Decision is a tax decision, and the Appellant rightly objected to the tax assessed therein (by lodging the Third Objection), we submit that the Third Objection was an objection to the Second Objection Decision.

101. We further submit that the Appellant was not required to pay any additional objection deposit prior to the Third Objection.

102. But, assuming without admitting that this Honourable Court holds a contrary opinion, we submit that since the Respondent has not demanded an additional objection deposit but went ahead to make a decision on the Second Objection, which resulted in the Third Objection Decision and subsequently the Final Objection Decision, the Respondent should be deemed to have waived the said

requirement under Section 42(6) of the Revenue Administration Act, 2016 (Act 915).

103. Consequently, we submit that the Court of Appeal should have held that the Third Objection was validly made against the Second Objection Decision.
104. Third, we submit that the 8<sup>th</sup> October 2021 letter (i.e., the Final Objection Decision) is an objection decision on the 30<sup>th</sup> December 2020 Letter (i.e., Third Objection).
105. My Lords, the Final Objection Decision meets the requirements of an objection decision within the meaning of Section 43 of the Revenue Administration Act, 2016 (Act 915).
106. Section 43(1), (4)(a) and (5) of the Revenue Administration Act, 2016 (Act 915) provides that:
- (1) After consideration of an objection, the Commissioner-General may vary the tax decision in whole or in part or disallow the objection.
  - (4) (a) A decision is made in respect of an objection on the date the person is served with notice of the decision.
  - (5) A notice served on a person in respect of an objection is conclusive evidence that a decision has been made and is correct.
107. So, the prerequisites for making an objection decision are as follows:

- (a) There must be an objection to the Respondent's tax assessment.
- (b) The Respondent must decide on the objection to the assessment.
- (c) The Respondent must serve notice of that decision on the taxpayer.

108. My Lords, concerning prerequisite (a), we have established that the Third Objection is an objection to the Second Objection Decision.

109. My Lords, concerning prerequisite (b), we submit that the Respondent made two decisions on the Third Objection.

110. Both statute and case law provide meaning to what a decision is. Under both statute and case law, the Final Objection Decision is a decision on the Third Objection.

111. The principles on interpretation of statutory procedural rules call for an interpretive result that furthers justice rather than injustice, thus, an interpretive result that will not remove a party from the judgment seat without a hearing.

112. In *Amidu (No. 3) v. Attorney-General, Waterville Holdings (BVI) Ltd & Woyome (No.2)*<sup>1</sup>, the Supreme Court held that statutory rules must be read as a whole, not piecemeal, and construed

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<sup>1</sup> [2013-2014] 1 SCGLR 606.

purposively in order not to defeat the legislative purpose and implied justice.

113. The Supreme Court again reiterated the need to advance justice in statutory interpretation in the case of **Halle & Sons SA v. Bank of Ghana & Warm Weather Ent. Ltd**<sup>2</sup> as follows:

We must allow flexibility in the rules of procedure to enable courts to make such orders as it considers just or necessary for doing justice to the case. I agree with Justice Modibo Ocran that we must totally reject *technicism* as a judicial approach to case resolution

114. Under statute, Section 41(5) of the Revenue Administration Act, 2016 (Act 915) provides that:

For the purpose of this section, *a reference to the Commissioner-General making a decision* includes the Commissioner-General exercising a discretion, making a judgement, giving a direction, expressing an opinion, granting an approval or consent, or being satisfied in respect of a matter.

115. Ultimately, an objection decision, in addition to varying tax decisions in whole or in part or disallowing objections under section 43(1) of Act 915, include the exercise of a discretion, making a judgment, giving a direction, expressing an opinion, granting an approval or consent, or being satisfied in respect of a matter.

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<sup>2</sup> [2011] 1 SCGLR 378.

116. The interpretation of an objection decision as including the giving of a direction is in line with the wording of Order 54 rule 4(1) of the High Court (Civil Procedure) Rules, 2004 (C.I. 47) which provides that:

An aggrieved person who has filed an appeal against an assessment, decision or **order** of the Commissioner under rule 1 of this Order shall, pending the determination of the appeal...

117. The Respondent's letter of 8<sup>th</sup> October 2021, i.e., the Final Objection Decision, is a decision within the meaning of the Revenue Administration Act, 2016 (Act 915) because, in that letter:

a. The Respondent made a judgment in respect of the Appellant's Third Objection of 30<sup>th</sup> December 2020 by disallowing the Third Objection and indicated that the adjusted assessment associated with the Second Objection Decision of 1<sup>st</sup> December 2020 is the final outstanding tax liability of the Appellant.

b. The Respondent unequivocally directed the Appellant to the effect that the Appellant's alleged outstanding tax liability of USD 5,448,152.65 (exclusive of the Objection Deposit) is payable from 8<sup>th</sup> October 2021 and that failure to pay same within 14 days from 8<sup>th</sup> October 2021 will attract interest at 125% of the statutory rate compounded monthly.

118. Relying on the case of **Essiem v. The Republic**<sup>3</sup>, the statutory definition of "decision" under Section 41(5) of the Revenue Administration Act, 2016 (Act 915) uses the expression "includes",

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<sup>3</sup> [1993-1994] 1 GLR 457.

thus, the statutory definition of “decision” is open-ended and leaves room for further elaboration by case law definition of decision.

119. The Black’s Law Dictionary, 9<sup>th</sup> Edition defines decision as:

A judicial or agency determination after consideration of the facts and the law; especially a ruling, order or judgment pronounced by a court when considering or disposing of a case.

120. In *NDK v. Ahaman Enterprises Ltd and Others*<sup>4</sup>, Anin Yeboah JSC (as he then was), speaking for the Supreme Court in the determination of whether a clarificatory opinion constituted a decision that may be reviewed under Rule 54 of the Supreme Court Rules, 1996 (C.I. 16), determined that:

Decisions are not limited to what a court of law in the usual course of hearing a matter delivers. Reference may be made to Black’s Law Dictionary 9 Edition at page 467 where the word decision is defined thus:-

“A judicial or agency determination after consideration of the facts and the law; especially a ruling, order or judgment pronounced by a court when considering or disposing of a case”.

It thus follows that when a court is seized with jurisdiction in determining any matter and gives a ruling, be it interlocutory or otherwise the court should be deemed as having given a decision.

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<sup>4</sup> J7/4/2016 of 13th June 2016.

121. By parity of reasoning, when an agency is seized with power in determining any matter and gives a ruling, the agency should be deemed as having given a decision.
122. We submit that the Respondent is constitutionally and statutorily permitted to examine and reexamine an objection to a tax decision, and ultimately render two or more decisions on a single objection for the following reasons.
123. First, by virtue of section 37(5)(b)(ii) and section 39(3) of the Revenue Administration Act, 2016 (Act 915), unless an assessment is adjusted pursuant to a decision of the Court or six years has expired from the relevant date of an adjusted assessment, the Respondent has the power to adjust an assessment at any time to ensure the right amount of tax is assessed and paid, no more and no less.
124. Second, the Revenue Administration Act, 2016 (Act 915) does not proscribe the Respondent from reexamining an objection to a tax decision. As such, the Respondent has the power to reexamine an objection to a tax decision and accordingly deliver a decision upon reexamination of the objection.
125. Third, in furtherance of maintaining the integrity of the tax system and ensuring that a taxpayer is liable for the correct amount of tax, it will be absurd for the Respondent's power to reexamine an objection to tax decision to be unduly fettered.
126. Fourth, relying on the Supreme Court decision of **Ahumah Ocansey v. The Electoral Commission and Centre for Human Rights & Civil**

*Liberties v. The Attorney-General & Another*<sup>5</sup>, the Revenue Administration Act, 2016 (Act 915) should be interpreted with a view to promoting and enhancing a taxpayer's right to fair taxation rather than derogating from it.

127. Article 34(1) of the 1992 Constitution of Ghana mandates this Honourable Court to be guided by the Directive Principles of State Policy in interpreting and applying any law including the Revenue Administration Act, 2016 (Act 915) to secure a just and free society.

128. As held by the Supreme Court in *Occupy Ghana v. Attorney-General*<sup>6</sup> in holding 3 of the headnotes:

These Directive Principles of State Policy are to aid the courts in the interpretation of the Constitution and any other law.

129. As part of the Directive Principles of State Policy, Article 36(2)(c) of the 1992 Constitution provides that:

The State [including the Ghana Revenue Authority as an agency of the State] shall, in particular, take all necessary steps to establish a sound and healthy economy whose underlying principles shall include ensuring that individuals and the private sector bear their *fair share of social and national responsibilities* including responsibilities to contribute to the overall development of the country.

130. This Honourable Court would enhance the Appellant's right to fair taxation by construing the Revenue Administration Act, 2016 (Act

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<sup>5</sup> [2010] 1 SCGLR 575.

<sup>6</sup> [2017-2018] 2 SCLRG 527.

915) as allowing the Respondent to reexamine an objection to tax decision and deliver a decision thereof.

131. My Lords, in line with the Respondent's power to examine and reexamine an objection to a tax decision, the Respondent examined and reexamined the Appellant's Third Objection of 30<sup>th</sup> December 2020 and delivered respective decisions in respect of the objection on 24<sup>th</sup> March 2021 (the Third Objection Decision) and 8<sup>th</sup> October 2021 (the Final Objection Decision).
132. The Respondent's Third Objection Decision has different tax implications from the Respondent's Final Objection Decision. The two decisions are not the same for the following reasons.
133. First, in the Third Objection Decision, the Respondent directed that the Appellant's alleged outstanding tax liability of USD 5,448,152.65 (exclusive of the Objection Deposit) is payable from 1<sup>st</sup> December 2020 and that failure of the Appellant to pay same within 14 days from 1<sup>st</sup> December 2020 will attract interest at 125% of the statutory rate compounded monthly.
134. The Respondent, however, in the Final Objection Decision, directed that the Appellant's alleged outstanding tax liability of USD 5,448,152.65 (exclusive of the Objection Deposit) is payable from 8<sup>th</sup> October 2021 and that failure of the Appellant to pay same within 14 days from 8<sup>th</sup> October 2021 will attract interest at 125% of the statutory rate compounded monthly.
135. Second, in the Final Objection Decision, the Respondent unequivocally indicated, albeit having the power to adjust the

adjusted assessment associated with the Second Objection Decision of 1<sup>st</sup> December 2020, that the assessment associated with the Second Objection Decision is final, thus, finality was brought to the tax dispute internal dispute resolution procedure.

136. **Third**, should the Final Objection Decision be considered as a clarification of the Third Objection Decision, the Final Objection Decision shall remain a new decision.

137. This is supported by the case of **NDK v. Ahaman Enterprises Ltd and Others** (*supra*), where the Supreme Court held that a clarificatory decision of the Supreme Court which clarified an earlier decision of the Supreme Court remained a new decision which can be the subject of the Supreme Court's review jurisdiction.

138. **Fourth**, in the case of **Nii Kojo Danso II v. Lands Commission & 2 Others** (Joshua Quarshie - Applicant)<sup>7</sup>, Benin JSC held that:

The fact that the ruling is not usually described as a judgment takes nothing away from its effectiveness as a decision or determination by the court.

*And as long as it is a court determination made in respect of the issue before it, it comes within the definition of ... 'decision' quoted from Black's Law Dictionary.*

139. The Respondent, by the Final Objection Decision, determined the issues raised in the Third Objection in the following words:

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<sup>7</sup> [2017-2018] 2 SCLRG 880.

We refer to your letter dated December 30, 2020 and referenced TS.1833/EOA/JHU on the above subject submitted on your behalf by KPMG in which you appealed against the Objection Decision dated December 1, 2020”

We have examined your appeal in accordance with the relevant provisions of the tax laws and wish to respond as follows...

140. In the case of *Sabbah (No. 2) v. The Republic (No. 2)*<sup>8</sup>, the Supreme Court endorsed the definition of “examine” in the Chambers 21<sup>st</sup> Century Dictionary, Revised Edition as:

To inspect, consider or look into something clearly.

141. As held by Benin JSC, so far as the Respondent’s Final Objection Decision was a determination of the issues raised by the Appellant’s Third Objection, the Final Objection Decision is a decision.

142. My Lords, our argument that the Final Objection Decision is a decision is further based on the Supreme Court’s determination in *Abu Ramadan & Nimako (No. 3) v. Electoral Commission & Attorney-General (No.3)*<sup>9</sup> that:

In construing judgments, which were a species of documents, the rules guiding the construction of documents should be applied in order to ascertain its true meaning. And a disjunctive reading of the orders made in the judgment as though they stand alone does not reflect its true meaning.

<sup>8</sup> [2015-2016] 1 SCGLR 402.

<sup>9</sup> [2015-2016] 1 SCGLR 77.

143. Accordingly, the treatment of the Final Objection Decision as a “decision” on the Third Objection cannot be discountenanced in ascertaining the Respondent’s decision on the Third Objection.
144. My Lords, the above establish that the Respondent’s Final Objection Decision is a decision on the Third Objection.
145. My Lords, concerning pre-requisite (c), the Respondent served notice of its Final Objection Decision on the Appellant on 12<sup>th</sup> October 2021.
146. We therefore submit that the Final Objection Decision satisfies all the prerequisites of an objection decision, thus, it is an objection decision that could be the subject of a tax appeal.
147. My Lords, we have thus established as follows:
- (a) That the 1<sup>st</sup> December 2020 Letter (i.e., the **Second Objection Decision**) is a tax decision.
  - (b) The 30<sup>th</sup> December 2020 Letter (i.e., the **Third Objection**) is an objection to the Second Objection Decision.
  - (c) The 8<sup>th</sup> October 2021 Letter (i.e., the **Final Objection Decision**) was an objection decision on the Third Objection.
148. My Lords, we submit that the Final Objection Decision was the Respondent’s objection decision which the Appellant ought to lodge the tax appeal within 30 days in accordance with Section 44 of the Revenue Administration Act, 2016 (Act 915) and Order 54 of the High Court (Civil Procedure) Rules, 2004 (C.I. 47).

149. Consequently, we submit that the Appellant's tax appeal filed on 8<sup>th</sup> November 2021 was filed within time.

**E. CONCLUSION**

163. My Lords, in sum, we submit that this appeal establishes sufficient bases for this Honourable Court to, in the interest of justice, exercise its powers in favour of the Appellant.

164. The sufficient bases are as follows:

- (a) The Revenue Administration Act, 2016 (Act 915) confers powers on the Respondent to adjust tax assessment in ensuring that the taxpayer is liable to pay only the correct amount of tax.
- (b) That so long as the Respondent exercises its powers to adjust tax assessment, the adjustment constitutes a tax assessment or a tax decision, which may be further objected to.
- (c) Additional objection deposits are not required under the Revenue Administration Act, 2016 (Act 915), once the taxpayer has paid a first objection deposit.
- (d) Assuming the law required the payment of additional objection deposits, the Respondent's failure to take additional objection deposits from the Appellant should be construed as a waiver of same under Section 42(6) of the Revenue Administration Act, 2016 (Act 915).
- (e) The tax decision that the Appellant could validly appeal against is the Final Objection Decision of 8<sup>th</sup> October 2021.

(f) Consequently, the Appellant's tax appeal of 8<sup>th</sup> November 2021 was filed within time.

Respectfully submitted.

DATED AT KIMATHI & PARTNERS, Corporate Attorneys, ACCRA, THIS  
12<sup>TH</sup> DAY OF FEBRUARY 2025.



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**KIMATHI KUENYEHIA**

Lead Counsel for the Appellant

Solicitor's Licence No.: GAR01007/25

The Registrar  
Supreme Court  
Accra

And a copy for service on the Respondent or its Counsel at the Legal  
Affairs and Treaties Department, Ghana Revenue Authority, off  
Starlets 91 Road, Accra.