

**FEDERAL HIGH COURT  
PRACTICE DIRECTION ON  
FEDERAL INLAND  
REVENUE SERVICES (FIRS)  
2021**

- The Chief judge of the Federal High Court Hon. Justice Tsoho Terhemba on 31<sup>st</sup> of May 2021 issued the Federal High Court (FIRS) Practice Direction 2021 which is said to commence on the 1 June 2021. The Practice direction applies to both criminal and civil cases at the Federal High Court relating to tax issues.
- This direction was passed to encourage expeditious settlement of tax matters, encourage the settlement of tax liabilities between parties, provide a direction for applications by FIRS and promote e-filing and service. The Chief judge of the Federal High Court Hon. Justice Tsoho Terhemba issued this practice direction in exercise to his power under Order 57 Rule 3 of the Federal High Court Civil Procedure Rules.

# **SOME SALIENT PROVISIONS OF THE PRACTICE DIRECTION**

- FIRS can file an Ex parte order for interim forfeiture of immovable property and interim order of freezing of bank accounts of taxpayers, to have access and/or seal up business premises or other known place of business, setting out the facts in its affidavit and written address;
- The Affidavit in support of the application is to be accompanied by a copy of the Notice of assessment of Tax, Tax Demand Notice, a copy of the Notice of FIRS letter requesting access to the Taxpayers books etc., and a Warrant of Distraint or Accesses signed by the Executive chairman of FIRS as provided by FIRS Establishment Act (as amended). A Brief Written Address is also to be filed.

# **SOME SALIENT PROVISIONS OF THE PRACTICE DIRECTION**

- A judge is mandated to grant the interim order for forfeiture of property, freezing of bank account, or access or sealing of the premises of a taxpayer pending the determination of the Motion on Notice.
- FIRS is mandated upon the granting of the Interim Order, to file a Motion on Notice within 14 days of the service of the Interim Order seeking for an order absolute on the immovable property or an order forfeiting the assessed amount.
- A party against whom a Motion on Notice is served who intends to respond to same is to file a Counter affidavit and Written Address within 14 days of the service of the Motion on him.
- A Judge to whom a tax related matter is brought to is to accord it priority.

# **SOME SALIENT PROVISIONS OF THE PRACTICE DIRECTION**

- Service of Notices here may be effected by email or WhatsApp. Printout of the means of service shall be deemed good service
- Where the Respondent does not intend to oppose the application, he shall file an application for leave to pay into the designated account the tax liability or debt and request for the discharge of the entire application. However, where he wants to challenge the assessment served on him, he shall pay half of the assessed sum into an interest yielding account of Federal High Court, pending the determination of the Application.
- Where on the date of the hearing of the Application or on an adjourned date the Applicant does not show up or is represented, the Application would be struck out.

# **SOME SALIENT PROVISIONS OF THE PRACTICE DIRECTION**

- FIRS is also allowed to apply for an extension of time of the Interim Order before the expiration of the 14 days where necessary. This application is to be filed by a Motion on Notice, supported by an Affidavit (with the requested documents) and a Written Address.
- A struck out Application as a result of Non-appearance may be relisted upon application to the Court.
- Where the Respondent fails to appear upon proof of service, the Applicant can proceed against Respondent upon Default of Appearance according to the Federal High Court (Civil Procedure) Rules .

## IMPLICATION

- The only area of uncertainty in this practice direction is as regards its silence in regarding the Tax Appeal Tribunal as the first forum of recourse for tax related issues. Section 59 of the FIRS Establishment Act (as amended) provides for the establishment of the Tax Appeal Tribunal("TAT") with the power to settle tax disputes at first instance.
- By this Practice Direction the Federal High Court would be assumed to be the First Court of Recourse for Tax matters.
- In conclusion this development is a laudable improvement by the Courts and the Federal Government to ensure speedy recovery of taxes owed and dispensation of tax related matters.

Kindly Reach us for more Information

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