A New Gateway to Challenge UAE FTA Decisions Through Enforcement: Analysis of Judgment No. 1322 of 2024 (Supreme Court – Administrative)

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Introduction

In a significant development for taxpayers disputing Federal Tax Authority (FTA) decisions, the Federal Supreme Court issued Judgment No. 1322 of 2024 (Administrative) on January 8, 2025. While the law provides a structured procedure to challenge FTA rulings—such as filing for reconsideration, objecting to the Tax Disputes Resolution Committee (TDRC), and appealing before the competent federal courts—this judgment clarifies that taxpayers may also initiate a challenge in the context of **enforcement proceedings**. As a result, the door is open for taxpayers to dispute the **subject matter** of FTA decisions through a substantive enforcement dispute.

Below, we discuss the background and key points of the judgment, citing verbatim translations of critical excerpts from the original ruling where relevant.

1. Background of the Case

The dispute arose when a taxpayer (the Appellant) was

subjected to an FTA enforcement action to collect allegedly unpaid Value Added Tax (VAT) and administrative penalties. The taxpayer claimed that the underlying debts did not, in fact, belong to its account. Faced with a **decision from the FTA Director General**—which, by operation of law, had the status of an "executory instrument" or "enforceable title"—the taxpayer contested its validity **within the enforcement stage** before the enforcement judge.

> ***Quote from the Judgment (translated)**: "If the person subject to tax fails to settle the tax due within the statutory time limits, the Federal Tax Authority notifies the person to pay; then the Director General issues a decision obligating the person to pay the tax due, and such Director General's decision shall be regarded as an executory instrument for the purposes of enforcement by the enforcement judge."*
> *(Judgment, ¶2 citing Article 40 of Federal Decree-Law No. 28 of 2022 on Tax Procedures)*

2. Established Path for Challenging FTA Decisions

Ordinarily, taxpayers disputing FTA assessments or decisions **must follow** a prescribed sequence:

1. **Reconsideration** with the FTA;
2. **Objection** before the Tax Disputes Resolution Committee (TDRC);
3. **Appeals** to the competent federal courts (the Federal Court of First Instance, then the Court of Appeal, and ultimately the Supreme Court).

The statutory regime aims to ensure that all administrative avenues are exhausted before judicial review on the merits. However, the new judgment acknowledges a **parallel route** when the dispute is raised during enforcement.

3. Substantive Versus Provisional Enforcement Disputes

A central issue in this judgment was whether the taxpayer's challenge during enforcement was merely a "provisional enforcement dispute" (seeking a temporary measure without touching the underlying obligation) or a "substantive enforcement dispute" (contesting the validity of the debt itself).

> ***Quote from the Judgment (translated)**: "The intended temporary disputes in enforcement—over which the enforcement judge has exclusive urgent jurisdiction—are those in which a party seeks a provisional remedy that does not touch the substance of the right. However, a substantive dispute is one in which the objective is to resolve the underlying right and the nullity of the enforcement."*
> *(Judgment, ¶4)*

The Court firmly held that if the taxpayer is disputing "the essence of the alleged tax debt," the matter is a **substantive enforcement dispute**, which cannot be dismissed merely as a provisional request.

4. Court's Reasoning: Re-Characterizing the Dispute

The Supreme Court reproached the lower courts for classifying the taxpayer's objection as a mere provisional enforcement dispute. Instead, the Court stressed that judges must **look beyond** the labels used by the parties and consider the real nature of the claim.

> ***Quote from the Judgment (translated)**: "It is established that the court of the merits is obliged to bestow the correct designation upon the action and to apply the correct legal characterization to it, unrestricted by the terms used by the*

litigants."
(Judgment, ¶3)

Because the taxpayer was **directly challenging the existence and correctness** of the underlying tax debt (alleging clerical errors, unrelated import transactions, and mismatched amounts), the claim was undeniably substantive in nature.

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5. Enforcement Orders as "Executory Instruments" but Not Final Judgments

The key legal nuance is that a **decision from the FTA Director General**—which the law treats as an enforceable title—remains an **administrative decision**, not a final judicial determination. This distinction allows the taxpayer to contest the debt's validity in an enforcement proceeding.

> ***Quote from the Judgment (translated)**: "Since the executory instrument in question is not a judgment but an administrative decision endowed by the legislator with the force of an enforceable title, it remains open for the debtor to raise a substantive enforcement dispute regarding the genuineness of the debt. An administrative decision does not enjoy the same conclusive presumption as a judicial ruling, and thus it may be rebutted."*
> *(Judgment, ¶6)*

Thus, the taxpayer may demonstrate the inaccuracy or invalidity of the sums claimed, even after enforcement begins, so long as the challenge truly concerns **the heart of the debt.**

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6. Court’s Criticism of the Lower Judgments

The Supreme Court found that the lower courts erred in refusing to entertain the taxpayer’s objections about wrongfully attributed import transactions and contradictory figures. Simply stating that Article 40 of the Tax Procedures Law designates the Director General’s decision as an enforceable title **did not** absolve the lower courts from examining the substance of the taxpayer’s defense.

> ***Quote from the Judgment (translated)**: “The contested judgment ignored what the appellant insisted upon—namely that its dispute is a substantive enforcement dispute aimed at demonstrating the non-liability for the claimed amounts—and ruled in favor of dismissing the enforcement objection under the pretext that the Director General’s decision has the status of an executory instrument. Such reasoning violates the law and deprives the appellant of the right to defend itself.”*
> *(Judgment, ¶7)*

The Supreme Court thus overturned (or “quashed”) the prior ruling and remanded the case for further examination.

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7. Practical Implications: A New Gateway for Taxpayers

This judgment underscores that **taxpayers are not strictly confined** to the official reconsideration or TDRC route when challenging disputed tax liabilities. Even if the FTA has already issued an enforceable decision, the taxpayer **can still raise a substantive dispute** at the enforcement stage, provided the taxpayer can present factual or legal grounds indicating

the debt is incorrect.

1. **Substantive Enforcement Dispute**: Taxpayers may argue they owe nothing or a reduced amount, attacking the very basis of the FTA's claim.
2. **Continued Enforcement**: Per Article 239 of Federal Decree-Law No. 42 of 2022, the court may permit ongoing enforcement unless it orders suspension, but the taxpayer still has the chance to register a substantive challenge.
3. **Procedural Safeguards**: Enforcement judges must assess whether the objection is provisional or substantive, directing the taxpayer to file the appropriate claim before the competent court if it is truly a matter of the underlying right.

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8. Conclusion

The Federal Supreme Court's decision in **Judgment No. 1322 of 2024 (Administrative)** serves as a landmark precedent, confirming that although a set procedure exists for disputing FTA decisions (reconsideration, TDRC objection, and judicial appeals), **taxpayers may also raise substantive challenges at the enforcement stage**. This development broadens the channels available to taxpayers and compels enforcement judges to scrutinize the legitimacy of the underlying tax claim when genuine disputes arise.

Ultimately, this ruling reinforces judicial oversight of administrative tax decisions and ensures that the so-called "executory instrument" conferred upon FTA determinations does not become an irreversible fait accompli. Taxpayers, therefore, should be aware of this **new gateway** to protect their rights when confronted with FTA enforcement actions.

As of this writing, **Wasel & Wasel** has successfully halted

enforcement actions against taxpayers exceeding approximately **AED 250,000,000** maintaining a near-perfect track record. We warmly invite you to **speak with us** if you wish to explore your legal options in challenging or staying FTA enforcement.

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