

UAE Supreme Court: Fraud and deception in construction quantity schedules

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Introduction

The United Arab Emirates Federal Supreme Court has offered an important perspective on the implications of fraud and deception in the context of construction contracts, based on a ruling that delved into these concepts. The ruling gives critical insights into how the court views contractual procedures, quantity schedules, and the necessary evidence to establish fraud and deception.

Construction Contract Procedures

In the contract in dispute, a critical element was the inclusion of all specifications and descriptions related to the beautification work, which was the responsibility of the contractor. The contract details served as a roadmap for the contractor, defining their responsibilities and obligations in executing the project.

Quantity Schedules

Integral to the contract is the quantity schedule, a document detailing the types and quantities of work to be completed as part of the project. It acts as a guiding tool that helps eliminate disagreements over the project's scope. The court ruling stressed that any variance from this quantity schedule or any modifications in the design would be viewed as a change, signifying the owner's awareness of the contractor's

prices and work items.

However, the court also noted that the owner had the opportunity to seek better price offers than what had been agreed upon, implying a level of responsibility on the owner's part in terms of due diligence before entering into the contract.

Legislative Provisions and Interpretations

The court based its decisions on relevant legislative provisions, namely Article 94 of the Civil Procedures Law and Article 21 of the Commercial Companies Law No. 2 of 2015.

Article 94 of the Civil Procedures Law primarily addresses issues related to lawsuits and legal procedures. In the context of this case employed to analyze the eligibility of parties involved in the lawsuit, eventually leading to the determination that directing requests to the three individuals along with the contracting company was litigation against an ineligible party.

On the other hand, Article 21 of the Commercial Companies Law No. 2 of 2015 offers guidance on the responsibilities and liabilities of shareholders in a company used to examine the roles and potential liabilities of the three defendants who were partners in the company initially sued.

Court Requirements to Evidence Fraud and Deception

When it comes to proving fraud and deception, the court requires solid evidence to establish such allegations. In this case, the court found no compelling evidence of the three defendants' role in the contract under litigation, undermining the strength of the claim of fraud.

The court reasoned that the owner failed to establish that the contractor used means to mask falsehood as truth and create a deceptive appearance, accompanied by physical manifestations

that would affirm the deception. Simply being partners in the contractor company initially sued does not, in itself, provide sufficient proof of deception.

Similarly, claims of overreaching in the contract, while possibly significant, were dismissed by the court.

Variations to Quantity Schedule: Fraud and Deception?

In the context of construction contracts, variations or changes to the quantity schedule can become potential points of contention. The quantity schedule, as part of the construction contract, specifies the type and quantity of work to be undertaken. It serves as a guiding document that assists in preventing disagreements over the scope of the project. The courts are likely to consider deviations from this agreed schedule as a substantial change, provided these deviations are not mutually agreed upon by the parties.

In the ruling at hand, the court took a pragmatic view of such variations. It asserted that any divergence from the quantity schedule or modifications in the design constituted a change. However, this alone does not equate to fraud or deception. The court maintained that the property owner's awareness of the prices, work items, and overall understanding of the contract terms plays a crucial role in deciding whether any changes amount to fraudulent activity.

The fact that the owner had the possibility to seek more favorable price quotes than what had been agreed upon in the contract signaled that they were aware of the pricing dynamics. This indirectly implies that even if the contract resulted in less favorable terms for the owner, it cannot be directly classified as fraud or deception unless the contractor employed fraudulent means to mislead or deceive.

If any changes to the quantity schedule are made with the intention to deceive, mislead, or defraud the other party, it can be classified as fraudulent behavior. This could include

actions like the contractor artificially inflating quantities or the owner knowingly accepting lower quantities than required, with the intent to later claim additional costs. However, changes made in good faith, or with full transparency and mutual agreement, are generally considered legitimate variations to the contract.

In the absence of strong evidence of fraudulent means, as in this case, variations to the quantity schedule are not typically regarded as fraud or deception. This highlights the importance of clear, honest communication, and comprehensive documentation in construction contracts, particularly when dealing with changes to the project's scope as outlined in the quantity schedule.

As a takeaway, both parties should be fully aware of their obligations and rights, exercise due diligence before entering the contract, and maintain transparency and clear communication throughout the project to avoid misunderstandings that could be construed as deception or fraud.

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Dubai Court finds Canadian company and its owner liable

in USD 7M cryptocurrency dispute

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Background

The plaintiff, a Canadian businessman, filed a suit before the Dubai Primary Court against the first defendant, an individual who owned the second defendant, a company established according to the laws of British Columbia, Canada. The company operated in the cryptocurrency market, facilitating the buying and selling of various currencies using fiat currencies such as Canadian and US dollars.

In early 2018, the first defendant traveled from Canada to the United Arab Emirates and met the plaintiff at a hotel in Dubai. Following their discussion, an agreement was reached wherein the company owned by the plaintiff, would use the services of the Canadian company (second defendant) to facilitate electronic transfer payments. It was agreed that the second defendant would act as a third-party payment processor for both the plaintiff personally and his company for payments and wire transfers.

As a part of the agreement, the plaintiff opened a trading account with the second defendant. The plaintiff would transfer Bitcoin or any other currency to the second defendant using his personal account. The terms and conditions allowed the plaintiff to cancel the account and withdraw all his balances at any time.

By the end of 2018, the second defendant delayed several transfers and claimed to have sent electronic transfer confirmation forms to the plaintiff, but the plaintiff

received none of these transfers. In early 2019, the plaintiff emailed the first defendant, pointing out the pending transfers that lacked tracking codes. He asked the first defendant to provide the tracking numbers for these transfers. The first defendant promised to send them to the plaintiff, but the plaintiff received neither the tracking numbers nor the transfers that the first defendant claimed to have sent.

In mid-2019, the plaintiff attempted to withdraw his cryptocurrency assets from his account with the second defendant. However, the first and second defendants refused to hand over the cryptocurrency assets and wrongfully retained them. The value of the cryptocurrencies in the account of the plaintiff with the second defendant amounted to USD 6,782,459.96, representing the average price of the cryptocurrencies in said account during the period from February 2021 to March 2021 according to details in an expert report submitted by the plaintiff.

Procedures

The court deliberated the submissions and issued an interim order to appoint a financial expert to report on the technical submissions of the plaintiff.

The court-appointed expert relied on details of the digital currency wallet of the plaintiff, extracted from the website of the Canadian company (the second defendant). The details contained the balance of the digital currencies and their value at the dates of transfer and claim proceedings. The total value of the digital currency balance as of the date of transfer to the second defendant was found to be USD 2,711,570.98 and as of the date of the preliminary court-appointed expert report was USD 7,460,838.38.

Analysis

The court found a definite relationship between the parties, evidenced by the email correspondence exchanged between the

plaintiff and the first defendant. Furthermore, the cryptocurrency wallet details, obtained from the website of the Canadian company (second defendant), including the cryptocurrency balance and its value, played a crucial role in the proceedings.

The court accepted the values of USD 2,711,570.98 and USD 7,460,838.38 as points for formulating the quantum of the amount claimed.

The plaintiff had snapshots of his trading account with the second defendant, which confirmed the balance demanded in the lawsuit. As pointed out by the court-appointed expert in his report, this balance was owed to the plaintiff by both defendants, based on an email sent by the first defendant to the plaintiff in early 2019. This correspondence acknowledged the outstanding balance in the account of the plaintiff, including the existence of cryptocurrencies in the crypto wallet.

Moreover, the plaintiff presented extracts from the accounting software used by both defendants, showing the balances of the crypto wallet belonging to the plaintiff and the deposited cryptocurrencies. The court found that this electronic correspondence and documents pointed to the liability of the first and second defendants for the crypto wallet belonging to the plaintiff.

Disposition

Based on these findings, the court deduced that the first defendant, as the owner of the second defendant, controlled the tracking numbers of the transfers and the cryptocurrencies in the crypto wallet of the plaintiff.

The court found the first and second defendants jointly liable to pay the plaintiff an amount of USD 6,782,459.96 or its equivalent in Emirati Dirham, along with legal interest at an annual rate of 5% from the date of judgment until the full

payment.

Takeaway

This recent judgment by the Dubai Primary Court marked a significant precedent, displaying the ability of the Dubai Courts to pierce the corporate veil of foreign companies, in this case, a Canadian company, holding its owner personally liable. This judgment highlights the universal reach of Dubai Courts, effectively adjudicating multi-jurisdictional disputes, irrespective of the place of incorporation or domicile of the entities involved.

In this case, the decision by the Dubai Primary Court to hold the owner of the Canadian company personally responsible signifies a significant expansion of Court authority over international entities in cryptocurrency disputes, demonstrating the commitment by the Dubai Courts to ensuring justice and enforcing liability.

This decision also highlights the acceptance of the Dubai Courts of sophisticated evidence regarding crypto transactions and crypto wallets. This development can be regarded as progressive in the rapidly evolving digital world of today.

The reliance by the Court on digital currency balances, the examination of email correspondences, and data from accounting software indicate a keen understanding and acceptance of digital and cryptographic evidence.

As the world continues to grapple with the legal implications and complications of cryptocurrencies, the judgment by the Dubai Courts represents a significant step towards developing an effective judicial framework that can handle cases involving international crypto transactions. The ruling sends a clear message that the Dubai Courts are capable of providing justice in cases involving cryptocurrencies, despite their inherent complexity and the international jurisdictional issues involved.

The progressive stance and competent handling of such complex cases by the Dubai Courts are likely to attract more international crypto-related cases, thereby further establishing Dubai as a global hub for resolving disputes in the realm of digital currencies, and reaffirming the commitment by Dubai to innovation, technological advancement, and its position as a pioneering legal jurisdiction in the age of digital finance.

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Abu Dhabi Court upholds out-of-scope award and indirect arbitration claims

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A recent case from the Abu Dhabi Cassation Court serves as an exemplary canvas on which several key arbitration concepts were explored, particularly concerning the validity and enforceability of an arbitration award that delves beyond the scope of its underlying arbitration agreement and the role of indirect claims in arbitration under the UAE Civil Transactions Law.

Case

The case revolved around a dispute arising from a contractual

relationship involving the appellant – a contractor – and three respondents. The first respondent, on behalf of the other two, had previously filed a lawsuit against the appellant to enforce its rights per the UAE Civil Transactions Law's Articles 392 and 393. These articles form a cornerstone of the UAE's law regulating civil and commercial matters.

Articles 392 and 393 of the Civil Transactions Law permit a creditor, even if their right is not due for performance, to exercise all the rights of the debtor, unless those rights are intimately linked to the debtor's personality or non-attachable. A creditor is thus deemed to be representing their debtor in exercising these rights, and any benefit derived from such an exercise enters the debtor's assets and becomes a guarantee for all the debtor's debts.

Decision

The case's focal point centered on the enforceability and validity of the arbitral award rendered in the ensuing arbitration proceedings. The appellant sought to nullify the arbitral award, primarily on the grounds that the arbitral tribunal had decided on matters not encompassed within the arbitration agreement. However, the Abu Dhabi Cassation Court dismissed these arguments, standing by the arbitral tribunal's decision.

Importantly, the Court upheld the arbitral award's validity, noting that even if the award delved into issues not covered by the arbitration agreement, it would not be void if the award's portions subject to arbitration could be separated from those that were not. The court further held that based on Article 393 of the UAE Civil Transactions Law, the first respondent was entitled to indirectly claim the last two respondents' rights from the appellant, including resorting to arbitration under the construction contract between the appellant and the last two respondents.

Thus, the arbitration award was affirmed, obliging the appellant to pay the first respondent the sum adjudged in the award, considering the first respondent as a representative of the second and third respondents.

Reasoning

The Court's judgment was rooted in a number of principles. First, it relied on the fundamental notion that an arbitration agreement's ambit defines the arbitrators' jurisdiction. However, the Court applied a pragmatic approach in recognizing that an award may still be valid, even if it touches upon matters outside the arbitration agreement, provided those portions can be segregated without impacting the decision's overall integrity.

The Court's decision also involved a careful interpretation of Articles 392 and 393 of the UAE Civil Transactions Law. The Court acknowledged that these provisions enabled a creditor to exercise all the rights of the debtor, even those not due for performance, subject to certain limitations. These provisions thereby authorized the first respondent to act on behalf of the other two respondents in claiming their rights from the appellant.

This interpretation gave rise to an intriguing legal scenario, one where the first respondent was allowed to resort to arbitration based on the construction contract between the appellant and the last two respondents. Consequently, this reasoning empowered the first respondent to indirectly claim the last two respondents' rights from the appellant through arbitration proceedings despite the lack of an arbitration agreement between the appellant and the first respondent.

Significance

The Court's decision in this case sets several significant precedents and offers a profound avenue for future indirect claims, particularly for subcontractors in the construction

sector in the UAE, such as in cases where a subcontractor attempts to pursue the employer on behalf of the main contractor via arbitration.

1. **Arbitration Agreement and Scope:** The judgment underscores the arbitration agreement's significance in delineating the arbitrators' jurisdiction. However, it advances a nuanced interpretation, asserting that an arbitration award can still retain its validity even if it ventures beyond the agreement's scope, as long as the portions relating to the arbitration agreement can be segregated from the rest.
2. **Role of Indirect Claims:** Perhaps the most remarkable facet of this judgment is its interpretation and application of the provisions of the UAE Civil Transactions Law concerning indirect claims. By endorsing the first respondent's capacity to act on behalf of the last two respondents in claiming their rights from the appellant, the Court offers a crucial precedent for the applicability of Articles 392 and 393.
3. **Arbitration and Indirect Claims:** The judgment also establishes an essential principle regarding arbitration's place within the domain of indirect claims. It affirms that a party representing another's rights, under the context of Articles 392 and 393, may resort to arbitration under the original contract between the debtor and the creditor.
4. **Enforceability and Validity of Arbitral Awards:** The ruling further adds to the ongoing dialogue concerning the enforceability and validity of arbitral awards. By upholding the award despite the appellant's objections, the Court reinforces the UAE's pro-arbitration stance and offers reassurance about the robustness and reliability of its arbitration regime.

The decision's legal implications are broad and far-reaching. It augments the body of legal precedents that will undoubtedly

influence future disputes involving similar arbitration issues. It offers important guidance on interpreting the UAE Civil Transactions Law towards indirect arbitration claims under Articles 392 and 393 and provides valuable insights into the UAE's arbitration landscape.

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Shariah rules and crypto disputes: UAE court judgment and official Fatwa invalidate cryptocurrency transaction

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Brief

“Bitcoin is a digital currency that does not meet the legal and Sharia criteria that make it a currency subject to the rulings of dealing with official legal currencies recognized internationally. It also lacks the Sharia controls that make it a commodity capable of being exchanged for other commodities.”

In a dispute over OneCoin cryptocurrency, a UAE court (Ras Al-Khaimah Primary Court) ordered the invalidation and rescindment of a cryptocurrency sale contract on the basis

that the cryptocurrency transacted (OneCoin) was not a recognized currency or commodity in violation of Shariah rules and the Civil Transactions Law.

Reference to Fatwa No. 89043

The Court referenced Fatwa No. 89043 issued by the General Authority for Islamic Affairs and Endowments in 2018 which addressed Bitcoin and cryptocurrencies in general. The Fatwa addressed the status of Bitcoin in that it did not possess the necessary specifications to make it a tradable currency, like the approved currencies that are traded worldwide. And that it also lacks the necessary legal requirements to be considered a commodity for exchange with other commodities. The following is the Fatwa content quoted by the Court in its reasoning:

“Firstly, defining Bitcoin: Those who call Bitcoin a currency describe it as a virtual, intangible electronic currency with no physical existence. These currencies, with their varying types, methods of access, and acquisition, have been widespread and known for several years. Among the most famous are Ethereum, Dash, Ripple, Litecoin, and Ethereum Classic, all of which are digital currencies, each with its characteristics, features, and ways of processing and generation. The purpose of resorting to such currencies is that they are decentralized, allowing individuals to control them, providing them with a high degree of privacy and confidentiality, and they cannot be tracked because they do not rely on official institutions and intermediary financial entities like banks. As they are not linked to any financial institution, they have no real assets or balances, are not protected by any financial regulations or laws, and are not subject to any regulatory authority. This has been one of the reasons for their exposure to massive increases or sharp declines, and in addition to all this: the unawareness of who is behind the promotion of this virtual currency makes it susceptible to damage and loss of value in the face of any sudden changes. For this reason, no country in the world,

including the United Arab Emirates, has recognized Bitcoin as legal tender.

Secondly, the Sharia criteria considered in currencies: In the previous paragraph, we provided a description that clarifies the reality of this currency in its current state. In this paragraph, we mention the most important Sharia requirement for considering anything as currency, which is: state adoption, meaning that it should be issued by the state. This is what the scholars express as minting or striking coins. This is explained as follows: The adoption of monetary currencies is considered a special function of the state in Sharia. The state alone has the right to issue coins, according to the adopted laws and regulations. This is explicitly stated in the texts of scholars, whether for metallic money – like gold dinars or silver dirhams – which have intrinsic value and were prevalent in the past, or for credit currencies that rely on the power of the law and do not have intrinsic value, such as paper currencies, which have become prevalent worldwide.

In conclusion, Bitcoin is a digital currency that does not meet the legal and Sharia criteria that make it a currency subject to the rulings of dealing with official legal currencies recognized internationally. It also lacks the Sharia controls that make it a commodity capable of being exchanged for other commodities. Therefore, it is not permissible to deal with Bitcoin or other electronic currencies that do not meet the recognized Sharia and legal criteria, as dealing with them leads to unsound consequences, whether for the individuals involved, the financial markets, or the entire community, and whether we consider it cash or a commodity, the ruling encompasses both cases.”

(United Arab Emirates – General Authority for Islamic Affairs and Endowments, Fatwa No. 89043 dated 30/1/2018)

Invalidity of a cryptocurrency contract

In its reasoning in Primary Court case no. 87/2020 (Ras Al-Khaimah), the Court applied the statutes, case law, and legislative commentary, that govern the validity of contracts under the Civil Transactions Law. The following are extracts from the respective judgment.

“According to the provisions of Articles 125, 129, and 141 of the Civil Transactions Law, a contract is the binding commitment issued by one of the parties by accepting the other party’s offer and their mutual agreement in a way that establishes its effect on the subject matter and results in the obligation of each party to fulfill what is required of them to the other party. For a contract to be concluded, both parties must agree on the essential elements of the obligation and on the other legitimate conditions that indicate their essentiality, and the subject matter of the contract must be something possible, specific, or determinable and permissible to deal with. (Federal Supreme Court – Civil and Commercial Judgments – Appeal No. 226 of the year 25 Judicial – Civil and Commercial Circuit – dated 2006-03-14 Technical Office 28 Part 1 Page 525)

Article 202 of the Civil Transactions Law stipulates the possibility of having a future thing as the subject matter for counterbalances if the uncertainty is eliminated. The explanatory memorandum clarified the meaning of uncertainty as the inability to deliver, based on the statements of Ibn Al-Qayyim, which can be summarized in that there is nothing in the Book of Allah or the Sunnah of His Messenger (peace be upon him) that indicates that a contract on something non-existent is not permissible, and to what is mentioned in the Sunnah of the prohibition of selling some non-existent things as in his saying (peace be upon him) “Do not sell what you do not have”. The reason is not non-existence, but uncertainty due to the inability to deliver. (Emirate of Abu Dhabi – Court of Cassation – Civil and Commercial Judgments – Appeal No. 286 of the year 2014 Judicial – Commercial Circuit – dated

In accordance with Article 210 of the Civil Transactions Law, an invalid contract is one that is not legitimate in its essence and is described as having a defect in its pillar, subject matter, purpose, or the purpose imposed by law for its conclusion, and it has no effect and is not subject to ratification, and anyone with an interest may invoke its invalidity. The court may rule on it by itself, as the invalid contract has no legal existence, like a contract. (Federal Supreme Court – Civil and Commercial Judgments – Appeal No. 284 of the year 25 Judicial – Sharia – dated 2004-01-27 Technical Office 26 Part 1 Page 240)”

Court finding

The Court ultimately found that:

“The sale of the cryptocurrency is not real and therefore not valid for trading. It does not meet the necessary criteria to be considered a tradable currency, particularly the requirement of being recognized by the state. Moreover, it cannot be considered a tradable commodity due to its lack of essential conditions, such as its existence and eligibility for trading. It is something that has not been proven to have actual existence or real value, and its ownership cannot be transferred, its value cannot be determined, nor can it be traded in any legitimate form.

As a result, the sales contract lacks the necessary legal conditions that must be present in any contract, such as the subject matter of the contract being possible, specific, or identifiable, and permissible for trading. In the case of a sales contract, specifically, the item sold must exist, be specific or identifiable, and eligible for trading. Furthermore, the cryptocurrency lacks the legitimate conditions that make it suitable for trading, as it is neither a tradable currency nor a commodity that can be exchanged,

given that the state has not recognized it as a currency. It is also tainted with uncertainty due to the inability to deliver it.

Consequently, the contract that forms the basis of the claim is flawed, and is considered illegitimate in its essence and description. It has no effect, and the court has the authority to rule its invalidity on its own, in accordance with Article 210 of the Civil Transactions Law.”

When are crypto transactions legal?

Notwithstanding the quotation of the Fatwa used by the Court, the complete text of Fatwa No. 89043 ultimately concludes as follows:

“It should be noted that this ruling applies specifically to these currencies that are the subject of the question at this time and are still beyond the control of responsible authorities. However, if a decision is made to regulate and adopt them and place them under a supervisory umbrella by those authorities, so that they meet the criteria that make them a legal currency, used in transactions between countries, then the ruling on dealing with them would take the same ruling as dealing with officially recognized currencies.”

The Fatwa, which states that dealing with cryptocurrencies such as Bitcoin is not permissible unless they meet the Shariah and legal criteria and are regulated by responsible authorities, can be considered compliant with manifest the Dubai Financial Services Authority (DFSA)’s recognition of certain cryptocurrencies.

The DFSA is the independent regulatory authority responsible for overseeing and regulating financial and ancillary services conducted in or from the Dubai International Financial Centre (DIFC).

The DFSA recognizes financial services and activities

involving Crypto Tokens in two ways: (1) if the Crypto Token is included in the initial list published by the DFSA (Bitcoin, Ethereum, and Litecoin), or (2) if an application for recognition of a specific Crypto Token is submitted and approved by the DFSA. As per the DFSA's notice of November 2022, Bitcoin (BTC), Ethereum (ETH), and Litecoin (LTC) are recognized Crypto Tokens.

The jurisdiction of the DFSA is within the DIFC, which is a special economic zone within Dubai. As a result, the DFSA's recognition of specific cryptocurrencies and its regulation of related financial services may be considered to only apply within the DIFC. This creates potential risks and uncertainties for cryptocurrency transactions conducted in other Emirates or outside the DIFC in Dubai.

In another example on a Federal level, the Central Bank of the UAE took the position in December 2020 that it is presently "not recognizing crypto assets as legal tender in the UAE, such assets are not recognized by the Central Bank as a means of payment and can only be used as assets for investment with a potential high risk".

Takeaway

The Central Bank, the Securities and Commodities Authority, the Financial Services Regulatory Authority and the Abu Dhabi Global Market, the Dubai Financial Services Authority and the Dubai International Financial Centre, the Virtual Asset Regulatory Authority, and even prosecutive authorities via anti-money laundering regulations have identified and defined cryptocurrencies and virtual assets in one way or another.

Notwithstanding, if a transaction turns contentious, there is an onus (on whichever party) to evidence that the cryptocurrency (or virtual asset) subject of the transaction fulfills legal and – potentially – Sharia criteria.

The laws and provisions are essentially static, until they are

tested before the courts, and their application becomes dynamic, granting clarity over their actual application.

If a cryptocurrency is not recognized by the overseeing UAE authorities, transactions involving such cryptocurrencies may be deemed invalid pursuant to Fatwa No. 89043 and the Civil Transactions Law.

And this would apply to consideration or perception of the disputed cryptocurrency as either currency or commodity.

It is essential for individuals and businesses to be aware of the legal status of the cryptocurrencies they are dealing with in light of the position of the UAE courts and consider the potential risks before engaging in transactions involving unrecognized cryptocurrencies.

And in caution against giving in to the escapism of crypto craze without adequate due diligence:

“There is a wisdom that is woe; but there is a woe that is madness. And there is a Catskill eagle in some souls that can alike dive down into the blackest gorges, and soar out of them again and become invisible in the sunny spaces. And even if he forever flies within the gorge, that gorge is in the mountains; so that even in his lowest swoop the mountain eagle is still higher than other birds upon the plain, even though they soar.” (Herman Melville, Moby Dick)

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UAE Federal Court rules no penalties on voluntary disclosures related to unintentional tax errors

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Overview

The taxpayer filed its tax return with incorrect amounts by mistakenly calculating the tax rate at a different value than the standard rate of 5%, resulting in an incorrect tax amount.

The taxpayer submitted a voluntary disclosure to correct the error, and the Federal Tax Authority imposed a penalty for the difference between the incorrect and correct tax amounts.

The Federal Primary Court, adjudicating the dispute, ruled that what the taxpayer did in the original form of submitting the voluntary disclosure subject to the contested tax is nothing more than a correction of the error it made when calculating the tax imposed on it for its activity at a different rate instead of the standard rate of 5%, and it is not a voluntary disclosure of errors in the value of the tax return or tax assessment, for which the penalties prescribed in Cabinet Resolution No. 40/2017 and its amendments are due, and therefore the imposition of penalties loses its legal basis.

The Court reasoned that the voluntary disclosure subject of this dispute, is merely a correction of an “unintentional error in calculating the tax”. Instead of using a 5% rate, the company mistakenly applied a different rate in the tax return.

The judgment confirms that this voluntary disclosure is not a “disclosure of errors in the tax return or assessment”, which would warrant penalties as per Cabinet Decision No. 40/2017 and its amendments.

As a result, the Federal Primary Court found that the imposition of penalties lacks a valid legal basis.

Significance

This judgment comes as a relief to taxpayers in the UAE because it provides a more lenient interpretation of the tax regulations and reduces the likelihood of penalties for honest mistakes. By differentiating between an “unintentional error in calculating the tax” and “a voluntary disclosure of errors in the tax return or assessment” the Court ruling essentially provides taxpayers with a more forgiving approach to correcting their tax filings.

In the given ruling, the Federal Primary Court treats the voluntary disclosure submitted by the taxpayer as a correction of an unintentional error rather than a voluntary disclosure of errors in the tax return or assessment. This interpretation has significant implications for taxpayers in terms of reduced penalties.

According to Cabinet Decision No. 40/2017 and its amendments, penalties can be imposed on taxpayers for errors in tax returns or assessments. By treating certain voluntary disclosures as a correction of an unintentional error, the court effectively eliminates the legal basis for imposing such penalties.

Overall, the judgment is a relief to UAE taxpayers because it offers a more favorable interpretation of the tax regulations, reduces the likelihood of penalties for unintentional errors, and encourages voluntary disclosure and correction of such errors.

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UAE cryptocurrency mining disputes: Dubai Court judgment sheds light on Bitcoin mining investment issues

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Introduction

A recent judgment by the Dubai Appeals Court following a series of civil suits and criminal complaints has shed light on pitfalls and best practices when faced with disputes arising from cryptocurrency mining investments and when litigated before the UAE courts.

This case involved a complicated series of litigation including multiple civil disputes before the Dubai Courts at various levels, criminal complaints, and various investments.

This article explores the principal claims and remedies, with a focus on the complexities surrounding cryptocurrency mining and the legal ramifications when volatility is attached to such investments.

Case

Claims of misrepresentation and inflated fees in a cryptocurrency mining investment

The plaintiff claimed that they had invested USD 300,000 in a cryptocurrency mining device through a partnership, which was held for over four months before the device was purchased.

And that the defendants had admitted that the initial price of the device was USD 1,200,000 with the partnership share of the plaintiff at 25%.

The plaintiff also alleged that it was later discovered that the actual price of the device was USD 1,100,000 and the defendants had charged a commission of USD 220,000. As a result, the final price of the device was USD 880,000 and the actual partnership share of the plaintiff in the partnership owning the cryptocurrency mining device should have been 34%.

Inequitable distribution of Bitcoin earnings

The court sided with the plaintiff that the losses suffered were further exacerbated by the distribution of Bitcoin earnings based on the original partnership share of 25%, rather than the corrected share of 34% which led to the plaintiff receiving a lower value of USD 175,000.

Fluctuating Bitcoin value and delayed transactions

The plaintiff also argued another issue that contributed to their losses was the decline in the value of Bitcoin from USD 19,000 to USD 6,000 over the seven-month period during which the second defendant refused to transfer the cryptocurrency to the account of the plaintiff. Consequently, the plaintiff argued that the total amount they should have received was estimated at about USD 1,900,000 in relation to the Bitcoin mining device investment.

Lack of legal ownership and regulatory compliance

The court also noted that the plaintiff was not registered as the owner of a 34% share of the mining device, with the entirety of the ownership retained by the second defendant. Additionally, the plaintiff argued that the defendants were operating without a license from the Securities and Commodities Authority to engage in investment management activities.

Lack of Information on the mining device production

It was evidenced to the court that 66.21021 Bitcoins were transferred to the wallet of the plaintiff during the period from 27 September 2017 to 31 October 2018.

However, experts appointed by the court were not provided with data on the production capacity of the cryptocurrency mining and the number of Bitcoins produced during that period to verify the correctness of the Bitcoins transferred to the plaintiff, nor were the experts provided with information on Bitcoin distributions that had occurred after 31 October 2018.

Dispute over investment and rising mining costs

The investment was reportedly halted due to disputes between the parties and rising mining costs. This led the plaintiff and the defendants to suspend operations until the end of 2021 to decide whether to resume operations, sell the assets, or liquidate the project. The fate of the cryptocurrency mining device was not disclosed, and no evidence was provided to indicate that the device ceased operations on 31 October 2018.

Bitcoin wallet and losses

The plaintiff sold their Bitcoin wallet on the same date it was received. The total value of the Bitcoins sold amounted to USD 499,961.89.

The first defendant held the Bitcoin profits of the plaintiff for the period from October 2017 to February 2018, totaling

five months.

The court found that the Bitcoin transfers to the plaintiff resumed on 17 March 2018, with the delayed payments resulting in a decrease in Bitcoin value and losses of USD 92,676.01 for the plaintiff.

Takeaways

Drawing upon the details of this case, we outline strategies and tactics to increase the efficacy of cryptocurrency mining claims and what pitfalls to avoid when litigating cryptocurrency mining investments before the courts in the UAE:

- Ensure transparency in crypto-mining investment agreements including accurate device prices, commission fees, and ownership percentages.
- Establish a fair and well-documented distribution of cryptocurrency earnings based on accurate ownership percentages and agreed-upon terms.
- Cryptocurrency value fluctuations can significantly impact investments. To minimize potential disputes arising from these fluctuations, parties should agree on strategies to mitigate their effects, such as setting predefined conditions for the transfer of assets or establishing a mechanism to address delays in transactions.
- Ensure that the ownership of mining devices and other assets is properly registered and compliant with local regulations and that parties engaging have the necessary licenses from relevant authorities.
- Justify hashrate and mining power guarantees. Disputes can arise if the mining company guarantees a certain hashrate or mining power but fails to deliver, especially if the reasons for underperformance are not clear or considered acceptable.
- When pursuing a cryptocurrency mining claim, it is

crucial to have complete and accurate data on the production of the mining device and the amounts produced during the relevant period. This helps in verifying the correctness of the cryptocurrency distributions made to the involved parties. If the mining company has control over which mining pool to join, disputes can arise if investors believe the chosen pool is not providing optimal returns.

- In the event of rising mining costs, it is important to have a predefined plan in place to address such issues. The plan could involve suspending operations, selling assets, or liquidating the project, but should be transparent and agreed upon by all parties. Establishing a clear course of action in advance can help prevent additional losses and further disputes.

Cryptocurrency disputes can be highly complex and require specialized knowledge. It is essential to engage dispute counsel who have expertise in blockchain and digital asset disputes. Including various experiences, our team has advised on NFT disputes in the UAE and abroad, in litigation and arbitration, digital asset multi-jurisdictional fraud, and assisted in drafting new technology sovereign conventions.

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No tax penalties without

Federal Tax Authority public clarification – rules the Dubai tax dispute resolution committee

July 26, 2023

In various decisions issued by the (second) Tax Dispute Resolution Committee of Dubai, the Committee ordered that tax obligations that are not explicitly provided for in the legislation do not create a tax obligation on the taxpayers until a public clarification is issued by the Federal Tax Authority.

Disputes

Three separate disputes were heard in 2023 by the (second) Tax Dispute Resolution Committee of Dubai on whether penalties should be applied to taxpayers against matters that are not explicitly clear in the legislation – but were instead clarified by the Federal Tax Authority via public clarification.

The FTA ordered the taxpayers to voluntarily disclose certain liabilities.

The FTA instructed the taxpayers that the tax legislation required certain tax liabilities to be disclosed by the taxpayers.

The taxpayers argued that the tax legislation did not explicitly require disclosing said liabilities.

The position of the FTA was that irrespective of whether the

taxpayer had read the legislation in a particular manner – the understanding of the taxpayer should have been as that of the FTA.

The FTA also relied on a public clarification that it had issued in mid-2022 to justify its position.

The taxpayers complied with the FTA instructions and filed voluntary disclosures throughout the year 2022.

The FTA applied the tax liabilities in addition to tax penalties against voluntary disclosure filings and late payments.

The taxpayers disputed the taxes and penalties before the Tax Dispute Resolution Committee.

Decision

The Tax Dispute Resolution Committee issued similar findings in the three disputes as follows:

- The tax legislation does not explicitly require the disclosure that the FTA had instructed the taxpayers to make.
- The position on how the tax legislation should be applied by the FTA was unknown to the taxpayer as it was derived from the specific legislative interpretation by the FTA.
- The interpretation of the tax liabilities by the FTA only became known to the taxpayers via the public clarification issued by the FTA.
- The taxpayers cannot be penalized for tax liabilities that dominantly arise from a public clarification issued by the FTA if such tax liabilities are not explicitly provided for in the tax legislation.

The Committee ordered the cancellation of all penalties up to the date of issuance of the public clarification by the FTA.

Takeaway

A substantial number of tax disputes in the UAE arise from differences in interpretation of the tax legislation – whether value-added tax legislation, excise tax legislation, or in due course, corporate income tax laws.

The decisions issued by the (second) Tax Dispute Resolution Committee of Dubai provide solace to taxpayers who are faced with penalty liabilities dating back to October 2017 or January 2018 for interpretations of tax legislation that differ from the interpretation by the FTA.

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New instruments announced by Dubai Courts to expedite and support enforcement of judgments and arbitration awards

July 26, 2023

On 22 February 2023, Dubai unveiled a new strategic plan that is set to further advance its judicial system towards a world-class model for efficiency and service excellence. The

benefits that will be derived by litigants in Dubai, especially those with high-value claims, cross-jurisdictional disputes, arbitration matters, and litigants with potentially insolvent debtors are significant.

The first major development in the strategic plan is the **Privatisation of Execution Procedures**. Aligned with the procedures of Civil Law No. (42) of 2022, the Dubai Courts will issue a decision to license private companies to provide judgment execution services. By allowing private companies to participate in the execution of judgments, the speed and efficiency of the process are expected to increase significantly. Moreover, to address market competition, private companies may provide innovative approaches to enforcement, which can lead to the development of new technologies and processes that improve the efficiency and effectiveness of enforcement actions.

Under the new plan, litigants with high-value claims will benefit from an advanced judicial system that exceeds global benchmarks for speed, efficiency, and service excellence. The new initiatives will expedite the execution of judgments and redesign processes to enforce court judgments, making it easier for judgment creditors to recover their assets. The **Electronic Writ of Execution Seal** initiative, for example, will facilitate the enforcement of court judgments and potentially arbitration awards through an electronic seal, making the process more efficient and less time-consuming. This can be particularly useful in cases where the judgment debtor is difficult to locate or where assets are spread across multiple jurisdictions.

Cross-jurisdictional disputes can be a challenge, but with the new initiatives, litigants in Dubai can expect an easier and more efficient process. The new plan includes the **Smart Requests** initiative, which aims to streamline the Writ of Execution procedures, making the process more transparent and easier to track. This will reduce delays and ensure that the

judicial system runs smoothly.

Litigants involved in collection claims will also benefit from the new initiatives, especially those relating to recognition and enforcement. The **Disclosure Platform** initiative, for example, will enable all authorities and officials involved in the execution of a ruling to be notified about the funds and assets of judgment debtors. This will allow officials to track and recover assets, helping to ensure that the judicial system operates at peak efficiency more easily.

Litigants with potentially insolvent debtors can also expect to benefit from the new initiatives. The **Sale Notification System** initiative creates a system for notifying officials in charge of the execution of a judgment about items confiscated as part of a ruling so that they can be sold within a specified time frame. This initiative will ensure that assets are sold in a timely manner, and that judgment creditors receive the compensation they are owed.

Furthermore, the integration with the **Ministry of Interior** will ensure that rulings are enforced with the help of police and security departments. This initiative will ensure that enforcement is efficient and transparent, helping to protect the rights of all parties involved in a case. This can be particularly beneficial for foreign investors and litigants who may be concerned about the enforceability of their rights in a foreign jurisdiction and can increase compliance with court orders and help prevent further disputes from arising.

In conclusion, the new strategic plan announced by Dubai Courts is set to benefit litigants in Dubai, especially those with high-value claims, cross-jurisdictional disputes, arbitration matters, litigants with potentially insolvent debtors, and will support procedures for recognition and enforcement of judgments and arbitration awards.

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UAE High Court finds ICC ADGM office subjects Abu Dhabi seated ICC arbitrations to the jurisdiction of the ADGM Courts

July 26, 2023

Brief

Two parties to a construction contract agreed that all disputes would be subject to the International Chamber of Commerce Rules of Arbitration and for the arbitration to be seated in Abu Dhabi.

The arbitration award was challenged by one of the parties before the Abu Dhabi Appeals Court.

The Abu Dhabi Appeals Court found it had no jurisdiction and that jurisdiction was exclusive to the Abu Dhabi Global Market Courts.

The reasoning of the Abu Dhabi Appeals Court was that:

- the arbitration was subject to the ICC Rules which

resulted in,

- the arbitration proceedings being subject to the ICC representative office in the ADGM,
- and as the ICC representative office in the ADGM is considered an ADGM establishment,
- then the ADGM Courts have exclusive jurisdiction to consider challenges to the arbitration award.

Petition

The party petitioning the Abu Dhabi Cassation Court argued substantively presenting a myriad of grounds addressing the UAE Federal Arbitration Law, the ADGM respective laws, and the New York Convention. The arguments of the petitioner were as follows:

- That the parties expressly agreed to settle disputes between them in accordance with the ICC Rules, provided that the procedures and place of arbitration are in the Emirate of Abu Dhabi, without allocating the spatial scope in the Emirate of Abu Dhabi, and that applying the ICC Rules does not make that ICC or any of its branches a place for arbitration because it violates the contract between the two parties.
- That the ICC having a representative office in the ADGM does not mean that the two parties have agreed that the seat of arbitration is this representative office as they agreed in the contract to subject arbitration and its procedures to the laws of the UAE, they also agreed that the Emirate of Abu Dhabi as the place for arbitration, and in accordance with Articles 1 and 2/1 of UAE Federal Arbitration Law No. 6/2018, the Abu Dhabi Appeals Court is the competent forum to adjudicate challenges against the arbitration award.
- That it was not mentioned in the arbitration award that it was issued by the ICC in its capacity as a local court in the ADGM or in its capacity as a local court in the Emirate of Abu Dhabi, and neither in the award nor

in the contract was there agreement to apply the rules of the ADGM or the Arbitration Regulations of the ADGM.

- That the arbitration award was not issued in the name of The Ruler of the Emirate (Abu Dhabi) as required by Article 13/2 of ADGM Law No. 4/2013, and it was not issued by judges as required by Article 13/1 of said ADGM Law, nor by the representative office of the ICC located in the ADGM, but rather by the Secretariat of the International Court of Arbitration affiliated with the ICC, nor did the ICC representative office in the ADGM notify the parties of the arbitration award, but the notification was rather conducted by the Secretariat.
- That assuming that the ADGM Courts are competent to hear challenges against the arbitration award, this causes a judicial vacuum because the Court of First Instance in the ADGM has no jurisdiction to hear the case and its jurisdiction is exclusively in accordance with the text of Article 7/13 of ADGM No. 4/2013.
- That neither the ADGM, nor any of the ADGM authorities, nor any of the ADGM establishments were party to the arbitration, and the contract was not concluded, completed, or executed, in whole or in part, and the incident was not completed in whole or in part in the ADGM, and the award is not an appeal against a decision or a procedure issued by any of the ADGM authorities.
- That the ADGM Courts apply the civil and commercial laws of the ADGM, specifically English laws, not the laws of the UAE, and the Abu Dhabi Appeals Court judgment violated the New York Convention, which requires under its Article Three the recognitions of arbitral awards as binding and enforceable in accordance with the rules of procedure of the territory where the award is relied upon, and para. (e) of Article V of the Convention prohibited those territories from refusing to recognize a foreign award or refusing to enforce it, and thus the Convention linked foreign awards to the legal system of

the country that it was issued and in respect of the invalidity of arbitration awards and as the award is issued in the Emirate of Abu Dhabi, the Abu Dhabi Courts have exclusive jurisdiction to hear challenges against an award issued in the Emirate of Abu Dhabi and outside the ADGM.

Disposition of the Abu Dhabi Cassation Court

The petitioner filed their petition before the Abu Dhabi Cassation Court on 29 December 2022 and the Court issued its judgment on 18 January 2023 rejecting the petition and upholding the finding of the Abu Dhabi Appeals Court on the following legislative grounds:

- Article 18/1 of the UAE Federal Arbitration Law applies which states that: “The jurisdiction to examine the arbitration matters referred by the present Law to the competent Court shall be according to the applicable procedural laws in the State, and they shall, solely, have the power until all arbitration proceedings are terminated.”
- Article 1 of the UAE Federal Arbitration Law defines the ‘Court’ as: “The federal or local Appeal Court agreed by all Parties or which the Arbitration is carried out within its area of jurisdiction.”
- Article 1 of ADGM Law No. 4/2013 defines ‘ADGM Establishments’ as: “Any company, branch, representative office, establishment entity, or project registered or licensed to operate or conduct any activity within the ADGM by any of the ADGM authorities according to the provisions of this law or the ADGM regulations or the executive resolutions including the licensed financial ADGM Establishments.”
- Article 13/1 of ADGM Law No. 4/2013 states that: “The ADGM Courts shall be of two degrees, first instance (formed of a single judge) and appeal (formed of three judges). Without prejudice to the provisions of this law

and the ADGM Regulations, the ADGM Courts shall be considered as courts of the Emirate, with jurisdiction over disputes and matters in accordance with the provisions of this law and the ADGM Regulations.”

- Article 13/7/d of ADGM Law No. 4/2013 states that: “The Court of First Instance and shall have exclusive jurisdiction to consider and decide on matters according to the following ... Any request, claim or dispute which the ADGM Courts have the jurisdiction to consider under the ADGM Regulations.”
- Article 13/10 of ADGM Law No. 4/2013 states that: “The Court of Appeal shall have exclusive jurisdiction to consider and decide on appeals made against the judgments or orders issued by the Court of First Instance.”
- Article 13/11 of ADGM Law No. 4/2013 states that: “Judgments of the Court of Appeal are final and may not be challenged by any method of appeal.”

Relying on these provisions, the disposition of the Abu Dhabi Cassation Court was:

- All disputes arising from or in connection with the contract are to be finally decided by arbitration subject to the ICC Rules, the laws of the UAE, and seated in the Emirate of Abu Dhabi.
- There was no dispute between the parties that the ICC opened its fifth branch in Abu Dhabi during the arbitration procedures and before the issuance of the arbitration award.
- The ICC branch in the ADGM is considered a representative office of the ICC, and an ADGM establishment, and hence the place of arbitration is the ADGM subject to ADGM Law No. 4/2013.

Conclusively, the Abu Dhabi Cassation Court upheld the Appeals Court finding that the ADGM Courts have exclusive jurisdiction over challenges against the arbitration award because the

arbitration agreement was subject to the ICC Rules and seated in Abu Dhabi, because the ICC representative office in the ADGM is considered an ADGM establishment.

Significance of this judgment and takeaways

The judgment is a high court judgment. The Abu Dhabi Cassation Court is the highest level of court proceedings in the Emirate of Abu Dhabi.

The judgment does not carry the status of stare decisis, and a conflicting judgment could be issued by the Abu Dhabi Cassation Court in the future.

However, for the time being, and given the expediency in which the Cassation Court issued its judgment in less than a month from the date the petition was filed, it appears the Cassation Court has taken a relatively resolute position on this matter.

By subjecting all arbitrations seated in Abu Dhabi and subject to the ICC Rules to the ADGM Courts, parties to such arbitration agreements need to consider the following:

- Review existing contracts and consider future dispute clause language to ensure that the parties choose which courts will have jurisdiction over the arbitration proceedings.
- Parties to an arbitration agreement can utilize the ADGM Courts for procedures outlined in the UAE Federal Arbitration Law, even where the ADGM is not the seat of arbitration, so long as the ICC Rules are agreed to be the rules of arbitration.
- Parties may utilize the ADGM Courts for various procedural powers under the UAE Federal Arbitration Law, even if the parties have no connection with the ADGM, as long as the arbitration agreement applies the ICC Rules and for the arbitration to be seated in the Emirate of Abu Dhabi, such as the following:
 - Issuance of interim or precautionary measures under

Article 18/2 of the UAE Federal Arbitration Law.

- Ruling on the jurisdiction of the arbitration tribunal under Article 19/2 of the UAE Federal Arbitration Law.
- Enforcement of interim orders and awards granted by the arbitration tribunal under Article 21/4 of the UAE Federal Arbitration Law.
- Seek the assistance of the ADGM Courts in taking evidence during arbitration proceedings under Article 36/1 of the UAE Federal Arbitration Law.
- Amendment of the fees and costs assessed by the arbitration tribunal under Article 46/2 of the UAE Federal Arbitration Law.
- Challenging an arbitration award under Article 53 of the UAE Federal Arbitration Law.

Looking forward, the ratio decidendi of the Abu Dhabi Cassation Court may apply across the UAE, including before the Dubai Cassation Court and the Federal Supreme Court.

Because the reasoning relies on the provisions of the UAE Federal Arbitration Law which applies on a Federal level across the UAE.

Hence the analysis that the ICC representative office encapsulates arbitrations seated in Abu Dhabi to the ADGM, may also arguably apply to arbitrations seated elsewhere in the UAE.

This increases the necessity for parties with arbitrations seated in the UAE to agree on the courts that would have jurisdiction over the arbitration procedures, and not just rely on agreement on the seat of arbitration as an indicator.

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Corporate income tax disputes under the new UAE Federal Decree-Law No. 47/2022 on the Taxation of Corporations and Businesses

July 26, 2023

The new UAE law on taxation of corporate (“Corporate Tax Law”) and business income was promulgated on 03 October 2022 and applies to tax periods commencing on or after 01 June 2023.

The Corporate Tax Law does not define its own dispute procedure system.

The Corporate Tax Law is subject to the Tax Procedures Law (Federal Decree-Law No. 7/2017).

The Tax Procedures Law regulates tax disputes through a five-tiered system: reconsiderations with the Federal Tax Authority, objections with the tax disputes resolution committees, and litigation before the Federal Primary Court, the Federal Appeals Court, and the Federal Supreme Court.

Here, we look at the top five prior tax-related judgments that would carry over to corporate tax disputes under the Corporate Tax Law.

1. No tax penalties on payment delays caused by the tax authority.

The Federal Primary Court has ruled that:

the obligations of the taxpayer to make tax payments on time and the procedural nature of the law are undeniable,

however, that does not produce an effect unless the way to implement the procedures is in accordance with what falls within the obligations of the Federal Tax Authority,

and if this is prevented by the Tax Authority without cause on the part of the taxpayer, there is no liability on the taxpayer that requires the imposition of penalties.

2. No tax penalties for re-submission of correct tax returns.

The Federal Supreme Court has ruled that:

“...it is decided that tax procedures are not an end in themselves, but rather a means to achieve the goal of the lawgiver in collecting the legally due tax. Allegedly, the tax returns made under the wrong procedure that were subsequently corrected were not taken into account. Rather, the FTA’s right to collect the fine decided by the legislator on the wrong procedure only recedes, without this right going beyond that by imposing other fines for a tax collected on the date specified by the law, even under the aforementioned procedure.”

3. No disputes available without tax or penalty liabilities:

The Federal Supreme Court has found that private clarifications are not disputable decisions until such clarification results in actual tax or penalties being applied to the disputing taxpayer.

In other words, if a decision by the Federal Tax Authority does not create a tax or penalty liability, it may not be disputed under the Tax Procedures Law.

4. No joint liability for tax evasion without laws validating the conviction.

The Federal Supreme Court overturned a judgment against a party found to be an accomplice to a tax evasion crime on the basis that joint liability requires explicit provisioning in the law:

“...the Appeals Court’s finding that the mere presence of the goods in the second accused’s warehouse is considered participation with the first accused in evading the tax as stipulated in the laws of the State, without indicating the laws criminalizing the act and validating conviction, stigmatizes the judgment for insufficient causation, and breaches the [second accused’s] right of defense, which requires it to be quashed.”

5. Time limits related to tax disputes.

The Federal Supreme Court ruled that the time limits related to tax disputes do not necessarily commence when notification is issued – but rather require evidence of the receipt and fulfillment of knowledge of the taxpayer of that decision and its contents.

Takeaway

As the Federal Courts consider a wider array of complex tax disputes, taxpayers would benefit from the guidance of the courts on general matters, such as those listed above – but also on more industry-specific matters such as those affecting the insurance industry, manufacturing, construction, and real estate.

As taxpayers begin planning for compliance with the Corporate Tax Law, it is necessary to understand the position of the courts and tax dispute resolution committees on substantive and technical issues.

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