Taxpayer Victory: Abu Dhabi Court Allows Recovery of VAT from Non-Compliant Suppliers

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In a recent judgment by the Abu Dhabi Cassation Court, the UAE judiciary has delivered a crucial ruling that has significant implications for taxpayers across the country, particularly concerning the longstanding controversies surrounding Value Added Tax (VAT) refunds. This decision, encapsulated in **Judgment No. 648/2024** issued on **August 8, 2024**, addresses the recurring issue where the UAE Federal Tax Authority (FTA) has historically rejected VAT refund requests due to non-compliant supplier invoices. This ruling now opens the door for taxpayers to seek remedies from their suppliers, potentially reclaiming amounts that could run into millions of USD.

Background and Legal Context

The case at hand involved a dispute where a construction company issued a check to a supplier as a guarantee for VAT related to a construction project. The dispute arose when the Federal Tax Authority (FTA) rejected the taxpayer's request for a VAT refund, citing the failure to provide the required documentation, specifically the VAT invoices issued by the supplier.

Historically, the FTA has been stringent in its requirements for VAT refunds, particularly where input tax is concerned. Under **Article 55 of the UAE VAT Law** (Federal Decree-Law No. 8 of 2017), businesses are entitled to recover input tax (VAT paid on goods and services) provided they hold a valid tax invoice. However, non-compliance with the invoicing

requirements as stipulated in **Article 59 of the Executive Regulations** has often led to the FTA rejecting refund requests, leaving taxpayers with significant unrecovered VAT amounts.

In this case, the taxpayer had submitted a refund request to the FTA but was unable to provide compliant invoices within the prescribed time frame. As a result, the FTA denied the refund, which led the taxpayer to initiate legal proceedings to recover the amount from the supplier.

The Court's Disposition

The Abu Dhabi Cassation Court's ruling is pivotal in that it clarifies the legal recourse available to taxpayers when faced with such VAT refund rejections. The court upheld the principle that if a supplier issues a non-compliant tax invoice, and as a result, the taxpayer's refund claim is rejected by the FTA, the taxpayer is entitled to reclaim the corresponding amount from the supplier. This decision reinforces the taxpayer's right to not be left bearing the financial burden due to the supplier's failure to comply with tax invoicing regulations.

Key Aspects of the Judgment

The court's reasoning centered around the obligations of the supplier under the UAE VAT Law. The judgment emphasized that **the issuance of a compliant tax invoice is a statutory requirement**, and failure to comply can result in significant financial implications for the purchaser (taxpayer). The court noted that in this particular case, the supplier had failed to provide the necessary VAT invoices within the stipulated timeframe, directly leading to the FTA's rejection of the refund request. Consequently, the court held that the taxpayer was entitled to recover the amount from the supplier.

Moreover, the court underscored that **the principle of equity demands that the financial burden resulting from non-**

compliance should not rest on the taxpayer. Instead, the supplier, who failed to fulfill their statutory obligations, should bear the consequences.

This ruling marks a significant shift in how tax disputes, particularly those involving VAT refunds, are likely to be handled in the UAE going forward. It sets a clear precedent that suppliers can be held financially accountable for the consequences of their non-compliance, potentially deterring future lapses in fulfilling VAT-related obligations.

Implications for Taxpayers and Suppliers

For taxpayers, this judgment provides a much-needed remedy in situations where VAT refunds are denied due to non-compliant invoicing by suppliers. The ruling empowers taxpayers to seek redress directly from their suppliers, ensuring that they are not financially penalized for issues beyond their control.

For suppliers, this decision serves as a stark reminder of the importance of complying with VAT invoicing requirements. The ruling effectively places the onus on suppliers to ensure that their invoices meet the standards set by the FTA. Failure to do so could result in substantial financial liabilities, as they may be required to compensate their clients for any lost VAT refunds.

Conclusion

The Abu Dhabi Cassation Court’s judgment in **Case No. 648/2024** is a landmark ruling in tax law within the UAE. It reinforces the critical importance of compliance with VAT regulations and provides a clear legal avenue for taxpayers to recover amounts denied by the FTA due to non-compliant supplier invoices. Taxpayers and suppliers alike would do well to take heed of this judgment and its far-reaching implications.

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