UAE Supreme Court extends time limit to challenge decisions of the tax dispute committees

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In a precedent-setting judgment that Wasel & Wasel acted as counsel on, the UAE Federal Supreme Court ruled on provisions governing notifications of decisions taken by the tax dispute resolution committees, and their effect on the time limitation to challenge such decisions before the Federal Primary Court.

The Supreme Court found that an objection against a tax dispute resolution committee that was filed with the Federal Primary Court almost four months after its issuance, rather than within twenty weekdays, was valid because proper notification of the decision had never taken place.

In December 2020, the Federal Supreme Court issued its judgment ordering that a decision of any of the tax dispute resolution committees does not trigger the time limit to challenge the decision before the Federal Primary Court unless notification of the decision is compliant with the general civil litigation procedures – particularly, Article 7 of the Executive Regulations of the Civil Procedures Law which details how and to whom notification should be made.

The significance of this judgment is that Article 7 of the Executive Regulations of the Civil Procedures Law is located in Chapter 1 of Book 1 of the Civil Procedures Law, and Book 1 is titled “Litigation before Courts”.

As a general matter, the tax dispute resolution committees are administrative committees headed by a judge – but are not courts or judicial agencies.

Hence, for the Supreme Court to apply the provisions of the Civil Procedures Law that govern court notifications to the procedures of the tax dispute resolution committees creates much-awaited clarification as to how and when notifications of decisions by the committees are considered valid and compliant to commence the time limit of twenty weekdays to challenge the decision before the Federal Primary Court.

The Federal Supreme Court found that the time limit only commences once Article 7 of the Executive Regulations of the Civil Procedures Law is fulfilled, and not prior, even if the decision is communicated to the address on record with the tax dispute resolution committee.

Generally, any person may submit an application to the Federal Tax Authority to reconsider any of its decisions issued in connection to him or her, in whole or in part, within twenty weekdays of the aggrieved person being notified of the decision.

Subsequently, if the aggrieved person wishes to contest the FTA's decision on the reconsideration application, the next step would be to submit an objection against the FTA's decision to the tax dispute resolution committees of Abu Dhabi, Dubai or Sharjah, depending on the domicile of the objector.

If the FTA or the objector are unsatisfied with all or part of the tax dispute resolution committee decision, either of them may challenge the decision before the Federal Primary Court within twenty weekdays "*…from the date of notification of the objector thereof*" according to Article 33(1) of the Tax Procedures Law.

In this landmark judgement, the Federal Supreme Court reasoned

that in light of the Tax Procedures Law and its Executive Regulations not specifying to whom the notification should be made, the provisions of Article 7 of the Executive Regulations of the Civil Procedures Law must be relied upon to confirm whether or not notification was made in a procedurally compliant manner to trigger the twenty weekdays for the challenge to be made before the Federal Primary Court.

The judgment is quite significant in light of a significant number of tax disputes being lost by the taxpayers for falling outside the time limit in the course of the following;

- prior judgments by the Federal Primary and Appeals Courts rejecting challenges against decisions of the tax dispute resolution committees for falling outside the time limit;
- rejections by the tax dispute resolution committees of objections against reconsideration decisions for falling outside the time limit; and
- rejections by the FTA of reconsideration applications against FTA decisions for falling outside the time limit.

In this landmark judgment, the challenge against the tax dispute resolution committee decision was brought before the Federal Primary Court four months after the decision had been issued – instead of within twenty weekdays – and both the Federal Primary Court and the Federal Appeals Court rejected the challenge for falling outside the time limit.

The Federal Supreme Court overturned the Federal Appeals and Primary Court judgments, and instead ruled that the time limit to challenge the committee decision had not been triggered until the provisions of Article 7 of the Executive Regulations of the Civil Procedures Law had been complied with and ordered that the challenge against the committee decision which was filed with the Federal Primary Court four months after the

issuance of the committee decision was valid and within the time limit given that the twenty weekday time limit was never triggered due to lack of proper and compliant notification.

Author: Mahmoud Abuwasel
Title: Partner – Disputes
Email: mabuwasel@waselandwasel.com
Profile: https://waselandwasel.com/about/mahmoud-abuwasel/

Lawyers and consultants.
Tier-1 services since 1799.
www.waselandwasel.com
business@waselandwasel.com