UAE Supreme Court orders cancellation of tax penalties for re-submission of returns

June 15, 2022

Facts

The taxpayer submitted tax returns for the prescribed tax periods as of January 2018, and these returns included supplies related to real estate owned individually to the taxpayer, as well as real estate owned in partnership with another person.

The taxpayer's partner was not added to the tax registration from the beginning due to the absence of his name as an owner in all real estate.

The taxpayer registered a new account with the partner on the directives of the Federal Tax Authority during an audit and re-filed the tax returns under the new account.

Penalties

The FTA applied late payment penalties to the taxpayer as the new account required re-submission of the returns that had been filed previously by the taxpayer under the original account.

The FTA considered that the new submissions were the correct submissions as the original submissions were not correct in form and procedure because the account did not include the partner.

The FTA applied the late payment penalties to the new

submissions tracing back to January 2018.

Supreme Court order

The taxpayer challenged this up to the Federal Supreme Court.

The Supreme Court found that the reopening of the new account did not result in damages to the State funds because the taxpayer had originally submitted and paid all tax returns, including the real estate in the partnership, on the legally prescribed dates.

The procedural deficiency did not manifest a circumstance where the payments had not been made.

In reasoning, the Supreme Court stated:

"Since this argument is in order, 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."

Significance

This judgment reassures the application of justice and equity in tax dispute proceedings before the Federal Courts of the UAE. Taxpayers must seek learned and practiced counsel when faced with a tax dispute.

Author: Mahmoud Abuwasel

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