INTERPRETATION OF TAX STATUTES IN NIGERIA: UNVEILING SCHOLARLY AND JUDICIAL INSIGHTS FOR GUIDED IMPLEMENTATION* **

ABSTRACT

Taxes constitute a cornerstone of the economies of every country and are arguably the major source of revenue for most countries who have an efficient legal and institutional regime for taxation. They are therefore manifestly important in the development of most nations. Tax law is totally a matter of statute so the interpretation of tax statutes is of monumental importance in the administration of the tax regime. It is against the foregoing background that this paper examines the legal regime for the interpretation of tax statutes in Nigeria. The researchers adopted the doctrinal method of study which involved the analysis of judicial decisions and scholarly publications on the regime for interpretation of tax status in Nigeria. It articulated the main rules and principles utilized in construing tax statutes and concluded by inter alia, urging Judges and lawmakers to do their part to ensure that both the enactment and interpretation of tax statutes are lucid.

Key words: Tax, Taxation, Interpretation, Tax disputes, Tax statutes, Construction.

1. Introduction

Since antiquity and all through recorded history, taxes have been levied on people and properties to generate revenue for the provision of social services. Taxation is an essential social obligation in the modern age[1] as well as a

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[1] K.J. Morgan & M. Prasad, 'The Origins of Tax Systems: a French-American Comparison'(2009) *American Journal of Sociology*, Vol. 114, No. 5, 1350. See also, I. Kwaghkehe and C. Hia, 'Taxation and Good Governance and Service Delivery in Nigeria: A Legal Perspective' (2020) *Journal of Law, Policy and Globalization*, Vol 99, 1.

fundamental instrument for national development and growth.[2] Its importance is unquestionable as it constitutes one of the major sources of revenue for government in Nigeria.[3] The importance of taxes is inestimable and has even increased in the light of modern challenges and in view of the fact that it is arguably the most sustainable source of revenue for any country, particularly a developing country like Nigeria which still relies virtually on the sale of crude oil. Tax law is completely statutory [4] and all taxes and tax issues are exclusively regulated by statutes[5] so that if a statute does not impose a tax, no one can be held liable to pay it[6]. According to Lord Blackburn in *Coltness Iron Company v Black*[7]:

> *No tax can be imposed on the subject without words in an Act of Parliament clearly showing an intention to lay a burden on him. But when that intention is sufficiently shown, it is, I think, vain to speculate on what would be the fairest and most equitable mode of levying that tax.*

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[2] M. T. Abdulrazaq, *Cases and Materials on Nigerian Taxation* (Lucknow: Eastern Book Company, 2016), 9. See also, M.N. Umenweke and WA Chukwuma, 'An Analytical Review of the Extant Tax Laws on Resolution of Business Tax Dispute in Nigeria', *International Journal of Law and Clinical Legal Education* 1 (2020) 1; DC Nwuzor and AC Onah, 'The Implications of Taxation on Revenue Generation in Nigeria', *Law and Social Justice* Review 3(3)2022, 59. .

[3] C. S. Ola, *Income Tax Law in Nigeria* (Revised Edition, Ibadan: Heinemann Educational Books (Nigeria) Plc, 1999), 8; A. Ipaye, *Nigeria Tax Law & Administration: A Critical Review* (London: ASCO Prime Publishers, 2014),1; M. Dura, 'An Analysis of the Personal Income Tax (Amendment) Act, 2011', (2012) *Journal of Commercial & Property Law,* 234; C. Odoh, 'The Effectiveness and Desirability of Value Added Tax', (2010) *Nigeria Taxation Journal,* 6.

[4] K. A. G. Whyte, 'Interpreting and Understanding Nigerian Tax Legislation' in O Akanle ed., *Tax Law and Administration in Nigeria* (Lagos: Nigerian Institute of Advanced Legal Studies, 1991),85. See also, D.W. Williams, 'Taxing Statutes are Taxing Statutes: The Interpretation of Revenue Legislation' (1978) 41 *MLR*, 404; J.E. Vinelott, 'Interpretation of Fiscal Statutes' (1982) *Stat. LR,* 78; M.T. Abdulrazaq, *Taxation System in Nigeria* (Lagos: Gravitas Legal & Business Resources Ltd, 2016), 36; M.T. Abdulrazaq, *Cases and Materials on Nigerian Taxation* (Lucknow: Eastern Book Company, 2016),171 .

[5] A. L. Suleman, 'Taxation Regime in Nigeria: Critical Analysis of Basic Principles' in J.A.A. Agbonika ed., *Topical Issues on Nigerian Tax Laws and Related Areas* (Ibadan: Ababa Press Ltd, 2015), 373.

[6] G. Etomi, *An Introduction to Commercial Law in Nigeria: Text, Cases & Materials* (Lagos: MIJ Professional Publishers, 2014), 332.

[7] (1881) 6 App. Cas. 315. See also, *SA Authority v Regional Tax Board* (1970) LPELR SC 273/1961, per Lewis, JSC and *IRC v Hinchy* (1960) AC 748.

Similarly, in *Ayrshire Employers Mutual Insurance Association Ltd. v IRC,*[8] the Lord President Normand asseverated that:

> *I seem in the end to be driven to that last refuge of judicial hesitation when confronted with a difficulty of interpretation, the doctrine that no tax can be imposed on the subject without words in an Act of Parliament clearly showing an intention to lay a burden on him.*

Flowing from the foregoing, the resolution of any tax dispute usually turns on the meaning or effect to be accorded to the specific provisions of the requisite statute[9]. Since there is no equity or common law in tax[10], the entirety of tax issues are determined in line with the requisite tax statute. In the light of all of the above, it is easy to perceive that the interpretation of tax statutes is a very vital factor in tax generally and in the adjudication or resolution of tax disputes in particular. It is on the foregoing basis that this article undertakes an analysis of the interpretation of tax statutes in Nigeria.

2. General Rules of Statutory Interpretation

Interpretation, as it relates to law generally and to this article in particular, is the ascertainment of a text's meaning, particularly the determination of how a text fittingly applies to specific facts[11]. Statutory interpretation is defined as the act or process of interpreting a statute.[12] Statutory interpretation is one of the foremost functions of judges.[13]

In Nigeria, there are three main rules of statutory interpretation: the Literal Rule, the Golden Rule and the Mischief Rule.[14] The Literal Rule, sometimes

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[8] (1944) 27 TC 344.

[9] A. Ipaye, *Nigeria Tax Law & Administration: A Critical Review* (London: ASCO Prime Publishers, 2014),50.

[10] N. Preston, 'The Interpretation of Taxing Statutes: The English Perspective' (1990) *Akron Tax Journal, Vol. 7* Art. 2, 43.

[11] B.A. Garner, *Black's Law Dictionary* (10th ed., St. Paul: Thomson Reuters,2014),944.

[12] *Ibid*, 1637.

[13] M.D.A. Freeman, *Lloyd's Introduction to Jurisprudence* (9th ed., London: Thomson Reuters, 2014), 157..

[14] I.O. Bolodeoku, 'The General Principles of Law' in E.O. Akanki ed., *Commercial Law in Nigeria* (Lagos: University of Lagos Press, 2005), 39-43; A. Obilade, *The Nigerian Legal System* (Ibadan: Spectrum Books Limited, 1977), 21-25 and D.A. Obadina, 'Interpretation of

referred to as 'strict constructionism' essentially stipulates that where the words of a statute are in themselves plain and unambiguous, they should be construed strictly according to their natural and ordinary meaning without looking to other sources to ascertain what it means.[15] It is premised on the assumption that words are not used in a statute without meaning, are not superfluous and the Parliament is deemed not to make legislations in vain[16]. It evolved from *the Sussex Peerage Case*[17] where it was held as follows:

> *If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves alone do, in such case, best declare the intention of the lawgiver.*

Furthermore, in *Magor and St. Mellons Rural District Council v Newport Corporation*[18], Viscount Simmonds espoused that:

> *The duty of the court is to interpret the words that the legislature has used; those words may be ambiguous, but, even if they are, the power and duty of the court to travel outside them on a voyage of discovery are strictly restricted.*

In Nigeria, the Literal Rule is usually the starting point in statutory interpretation by the courts. Thus, in *Our Line Ltd v SCC (Nig. Ltd*)[19], the Supreme Court harped that:

> *One of the cardinal rules of construction of written instruments is that the words of a written instrument must in general be taken in*

Tax Statutes and Development: The Place of Purposive Interpretation' in J.A.A. Agbonika ed., *Topical Issues on Nigerian Tax Laws and Related Areas* (Ibadan: Ababa Press Ltd, 2015)120.

[15] D.A. Obadina, *op cit*, 123. See also, E.A. Udu and C.A. Igwe, *Nigerian Legal System in Perspective* (Abakaliki: Omega Global Publishing Company Ltd, 2021), 63; *Okotie-Eboh v Manager* (2004) 18 NWLR (Pt.905) 186-187; *Olanrewaju v Governor of Oyo State* (1992) 9 NWLR (Pt. 265) 335 at 362 and O. Adefope-Okojie, *Civil Litigation: A Quick Reference Guide to Substantive Law and Procedure* (WOHM, 2013), 289.

[16] S.O. Imhanobe, *Legal Drafting & Conveyancing (With Precedents)* (Abuja: Temple Legal Consult, 2002),219.

[17] (1844) 11 Clark & F. 136. See also, B. Momodu, *Encyclopedia of Nigerian Case Law Principles and Authorities: Supplementary Materials* (Benin: Momodu B Law Publishing, 2019), 405.

[18] (1952) AC 189.

[19] (2009) 17 NWLR (Pt. 170), 382 at 409.

> *their ordinary sense notwithstanding the fact that any such construction may not appear to carry out the purpose which might otherwise be supposed to have been intended by the maker or makers of the instrument. The rule is that in construing a written instrument, the grammatical and ordinary sense of the words should be adhered to, unless that would lead to some absurdity or some inconsistency with the rest of the instrument. The instrument has to be construed according to its literal import unless again there is something in the context which shows that such a course would tend to derogate from the exact meaning of the words. Thus, an express provision in an instrument excludes any stipulation which would otherwise be implied with regard to the subject matter expressum facit cessare tacitum.*

While the Literal Rule certainly ensures certainty[20] and reduces judicial law-making, it has been criticized on the grounds that it could lead to absurdity and injustice, it fails to take note of the fact that statutes while generally perpetual in duration, change in function and functioning and it does not appreciate the fact that while the core meaning of words is settled, the fringe meaning is susceptible to manipulation.[21] It has also been criticized on the grounds that it overlooks the limitations faced in legislative drafting[22] and it fails to make provisions for the difficulty of foreseeing and providing for all contingencies capable of having an effect on a proposed provision.[23] In a strong denunciation of the Literal Rule, a scholar opined that:

> *The approach is mechanical, divorced both from the realities of the use of language and from the expectations and aspirations of the human beings considered and, in that sense it is irresponsible.*[24]

In instances where for some reason or the other, the courts find themselves unable or unwilling to utilize the Literal Rule, they usually resort to the Golden Rule. The Golden Rule is a modification of the Literal Rule which

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[20] *Mobil Oil Nigeria Limited v Federal Board of Inland Revenue* (1977) 3 SC 53 at 67, per Bello, JSC.

[21] S.O. Imhanobe, *op cit*, 221.

[22] D.A. Obadina, *op cit*, 127.

[23] W.T. Wining and D Miers, *How to Do Things with Rules* (5th ed, Cambridge: Cambridge University Press, 1976) 40-43.

[24] M. Zander, *The Law Making Process* (London: Sweet and Maxwell, 1980), 55-6.

becomes necessary when the application of the Literal Rule results in absurdity, inconsistency or ambiguity.[25] It is based on the notion that the Parliament could not have intended an absurd result.[26] In articulating the Rule in *Becke v Smith*[27], Parke B, explained that:

> *It is a very useful rule in the construction of a statute to adhere to the ordinary meaning of the word used, and to the grammatical construction, unless that is at variance with the intention of the legislature to be collected from the statute itself, or leads to any manifest absurdity or repugnance, in which case the language may be varied or modified so as to avoid such inconvenience, but no further.*

Similarly, in *Grey v Pearson*[28], it was articulated that:

> *The grammatical and ordinary sense of the words is to be adhered to, unless that would lead to some absurdity, or some repugnance or inconsistency with the rest of the legislation, in which case the grammatical and ordinary sense of the words may be modified so as to avoid the absurdity and inconsistency, but no further.*

As seen above, while the Golden Rule may become necessary in deserving circumstances, it should not be the starting point for Judges in interpreting statutes. It may be praised on the ground that it can help salvage situations where the courts might have been otherwise constrained to make interpretations which are absurd, unjust or manifestly unreasonable. On the other hand, it can be criticized on the basis that it is prone to abuse, may entrench uncertainty and will result in judicial law-making and thereby lead to or exacerbate usurpation of legislative powers by the Judiciary.

The third main rule of statutory interpretation is the Mischief Rule, also known as the Rule in *Heydon's case*[29]. It is utilized in explaining the intention

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[25] *Okeke v AG Anambra State* (1992) 1 NWLR60 at 85.
[26] J.O. Asein, *Introduction to Nigerian Legal System* (2nd ed, Lagos: Ababa Press Ltd, 2005),53.
[27] (1836) 150 ER 724 at 736.
[28] (1857) 6 HL Cas. 61.
[29] (1584) 96 ER 638.

of the Parliament whenever the meaning of a specific provision is in doubt[30]. According to Tindal, CJ in the *Sussex Peerage Case*[31]*:*

> *If any doubt arises from the terms employed by the legislature, it has always been held a safe means of collecting the intention, to call in aid the ground and cause of making the statute and to have recourse to the preamble which, according to Chief Justice Dyer is a key to open the minds of the maker of the Act and the mischiefs which they intend to redress.*

In applying the Mischief Rule, the courts should be guided by the following:

a. What was the law before the statute was passed?

b. What was the mischief not provided for by the said law?

c. What remedy has the Parliament proposed to remedy the mischief? and

d. What is the true reason for the remedy?[32]

Utilizing the above parameters, the court is then to discover the mischief and remedy and interpret or construe the statutory provision in such a manner as to suppress the mischief and advance the remedy.[33]

Perhaps the most articulate and enthusiastic proponent of this rule was Lord Denning, MR who evinced his appreciation of the rule in *Engineering Industry Training Board v Talbot*[34] when he resolutely declared that, 'We no longer construe Acts of Parliament to their literal meaning. We construe them according to their object and intent.'

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[30] A.O. Asein, *op cit*, 58.
[31] *Supra*.
[32] *Re Mayfair Property Co.* (1898) 2 Ch. 28 at 35 per Lindley, MR. See also, *Balogun v Salami* (1963) 1 All NLR 129 and *Kolawole v Alberto* (1989) 1 NWLR 382 at 416.
[33] J.O. Asein, *op cit*, 58; S.O. Imhanobe, *op cit*, 225.
[34] (1969) 1 All ER 480 at 480.

In a similar vein, the Supreme Court of Nigeria in *SPDC v Isaiah*[35] held that it is trite law that a statute should be read as a whole and be given an interpretation consistent with the object and general context of the entire statute. The main advantage of this rule has been stated to be that it takes note of the changes in society.[36] It has also been endorsed forcefully for being a rule which gives 'force and life' to the intention of the Parliament.[37] While the above advantages are undoubtedly inherent in the Mischief Rule, just like the Golden Rule, it is prone to abuse and will encourage judicial lawmaking. This article now turns to the interpretation of tax statutes.

3. Interpretation of Tax Statutes

In interpreting tax statutes, the preferred rule of construction is the Literal Rule.[38] The revered tax Judge, Rowlatt, J in *Cape Brandy Syndicate v IRC*[39] ratified this approach when he espoused the memorable view that:

> *In a taxing Act, one has to merely look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to a tax. Nothing is to be read in, nothing is to be implied. One has to look fairly at the language used.*

In Nigeria, this rule was strongly endorsed in *Aderawos Timber Trading Company Ltd v FBIR*[40] where Ikpeazu, J held as follows:

> *It is the law that the language of a statute imposing a tax, duty or charge must receive a strict construction in the sense that there is no room for any intendment and regard must be had to the clear meaning of the words. If the State claims a tax under a statute, it must show that the tax is imposed by clear and unambiguous words, and where the statute is in doubt it must be construed in favour of the subject, however much within the spirit of the law the case might*

[35] (1997) 6 NWLR (Pt. 508) 236. See also, *Omoijahe v Umoru* (1999) 8 NWLR (Pt. 614) 178 at 188.
[36] S.O. Imhanobe, op cit, 227.
[37] *Seaford Court Estate Ltd v Asher* (1949) 2 All ER 155 at 164.
[38] A. Ipaye, *op cit*, 50.
[39] (1921) 2 KB 403. See also *Mangin v IRC* (1971) AC 739. See also, L.O. Oshisanya, *An Almanac of Contemporary Judicial Restatements with Commentaries*, Volume ii (Lagos: Almanac Foundation, 2013), 851.
[40] (1966) NCLR 416 at 422. See also, *7up Bottling Co. Plc. V LSIRB* (2000) 3 NWLR (Pt. 650) 565.

> *otherwise be, but a fair and reasonable construction must be given to the language used without leaning to one side or the other.*

Faithful adherence to the ordinary and clear provisions of tax statutes is mandated so that as Lord Cairns stated in *Partington v Attorney General*[41], an equitable construction 'is not admissible in a taxing statute where you can simply adhere to the words of the statute'. In fact, the preference of the Literal Rule in the interpretation of tax statutes is so profound that in *IRC v Ayshire Employers Mutual Insurance Association Ltd*[42], when he was faced with an apparent lacuna in a tax statute, Viscount Simmonds had this to say:

> *It is at least clear the gap that is intended to be filled and hardly less clear how it is intended to fill the gap. Yet I can come to no other conclusion than that the language of the section fails to achieve its apparent purpose and I must decline to insert words or phrases which might succeed where the draftsman failed.*

It seems that the philosophy undergirding the preference for the Literal Rule in the construction of tax statutes is that if government wants to interfere with property or pry into a man's affairs and take his money, it must be on clear statutory authority.[43] Thus, in *Warrington v Furbor,*[44] Lord Ellenborough opined that where the subject is to be charged with a duty, the circumstances in which it is to be attached should be fairly marked out. Furthermore, in *SA Authority v Tax Board*[45], the Supreme Court of Nigeria per Lewis, JSC echoed the same view in placing his firm reliance on Lord Blackburn's dictum in *Coltness Iron Co. v Black*[46] that 'no tax can be imposed on the subject without words in an Act of Parliament clearly showing an intention to lay a burden on him'. The advantage and criticism advanced earlier for about the Literal Rule generally apply here *mutatis mutandi*.

There is nothing to show that the Golden Rule plays a huge role in the interpretation of tax statutes but recently, the Mischief Rule has found

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[41] (1869) LR 4E & 1 App. HL 100.
[42] (1946) 1 All ER 637.
[43] *Pryce v Monmouthshire Canal and Railway Coy* (1879) 4 AC 197, per Lord Cairns.
[44] (1807) 103 ER 334 at 335.
[45] (1970) 1 All NLR.
[46] *Supra.*

increased appreciation by the courts. In *Mangin v IRC*[47], Lord Donovan approved of the Rule when he remarked, *inter alia*, that:

> *…the object of the construction of a statute being to ascertain the will of the legislature, it may be presumed that neither injustice nor absurdity was intended. If, therefore, a literal interpretation would produce such a result and the language admits of an interpretation which would avoid it, then such an interpretation may be adopted.*

A perhaps stronger endorsement was given by Bello, JSC in *Mobil Oil Nigeria Ltd v Board of Inland Revenue*[48], when he articulated that:

> *In construing a statute, regard shall be given to the cause and necessity of the Act and then such construction shall be put on it as would promote its purpose and arrest the mischief which it is intended to deter… some companies have been manipulating their accounts with intent to hide their true assessable profits and in that manner have been avoiding tax which they ought to have paid. The purpose of section 30A (of the Companies Income Tax Act) is to deter companies from engaging in such a fraudulent practice.*

Without getting right away into the merits or otherwise of this shift in judicial attitude, more judgments have illustrated this approach. For instance, in *Shell Petroleum Development Co. Ltd v FBIR*[49], the Court not only applied equitable considerations in the construction of tax statutes but also issued administrative directives over-riding the interpretation of a tax statute while in *Phoenix Motors Limited v NPFMB*[50], Tobi, JCA held as follows:

> *If a statute is revenue based or revenue oriented, it will be part of sound public policy for a court of law to construe the provisions of the statute liberally in favour of revenue or in favour of deriving revenue by Government, unless there is a clear provision to the contrary. This is because it is in the interest of the generality of the public and to the common good and welfare of the citizenry for Government to be in revenue and affluence to cater for the people. This is the only way it can distribute wealth to the people to facilitate development to all and sundry. And this is more so in a country such*

[47] (1971) AC 739.
[48] (1977) 1 NCLR 1.
[49] (1996) 8 NWLR (Pt. 466) 256.
[50] (1993) 1 NWLR (Pt. 272) 718.

> *as ours, where most citizens open their mouth with all gluttony to receive assistance and welfare packages from Government in almost all sectors of development in our very frail and flabby economy.*

That the above dictum betrays a misconception of the basic tenets of taxation is unquestionable. It is not surprising then that it has been criticized by scholars. According to Ipaye, the approach **'**is not consistent with any recognized rule of interpretation for tax or revenue statutes'.[51] To Umenweke, the *Shell case* and the *Phoenix Motors case* 'do not represent good law and should not be followed as *stare decisis* by lower courts'.[52]This work agrees with the above views. However, Obadina has a different view. According to him, 'For all the criticism that may be levelled against the principle articulated in the *Phoenix* case, it chimes with the emergent national consensus in highlighting the link of dependency between tax generation and socio-economic development'.[53] While certain circumstances may of course warrant the utilization of this Rule, the Judges are urged to be circumspect and very careful in so doing so that they do not usurp the lawmaking power of the Parliament. The Parliament, on its part, must be fastidious and scrupulous in making tax statutes so that there would be no need to resort to this rule in the first place.

Be that as it may, this Rule has been increasingly used in interpreting anti-avoidance provisions in tax statutes on the basis that they are often 'couched in very wide and sometimes quite unintelligible and ambiguous terms'.[54] For instance, commenting about the British Finance Act 1940 in the case of *Aubyn v AG,*[55] Lord Simmonds remarked that certain provisions therein were '… of unrivalled complexity and difficulty and couched in language so tortuous and obscure' that he was 'tempted to reject them as meaningless.' It is believed that if the Literal Rule is used in situations such as this, tax avoiders may not be captured by the tax net so the courts sometimes resort to this rule in order to

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[51] A. Ipaye, *op cit*, 55.

[52] M.N. Umenweke, *Tax Law and its Implications for Foreign Investments in Nigeria* (Enugu: Nolix Educational Publications (Nig), 2008),30.

[53] D.A. Obadina, *op cit*, 139.

[54] A. Ipaye, *ibid*.

[55] (1952) 30. See also the dictum of Lord Reid in *Associated Newspapers Group v Fleming* (1973) AC 628 at 639.

ascertain the intention of the Parliament. In elucidating this reasoning in the case of *Greenberg v IRC,*[56] Lord Reid remarked as follows:

> *We seem to have travelled a long way from the general and salutary rule that the subject is not to be taxed except by plain words. But I must recognise that plain words are seldom adequate to anticipate and forestall the multiplicity of ingenious schemes, which are constantly being devised to evade taxation. Parliament is very properly determined to prevent this kind of tax evasion and, if the courts find it impossible to give very wide meanings to general phrases, the only alternative may be for parliament to do as some other countries have done, and introduce legislation of a more sweeping character which will put the ordinary well intentioned person at much greater risk than is created by a wide interpretation of such provisions as those we are now considering.*

While it has been earlier acknowledged that certain circumstances warrant the utilization of the Mischief Rule in the construction of tax statutes, it needs to be repeated that the courts must be circumspect. The scintillating view of Karibi-Whyte in this regard bears mentioning as he asseverated thus:

> *There is no doubt that the merit of certainty in a taxing statute cannot be better emphasized than to insist that the words used in the statute must be taken to mean what the legislature intend to convey, and no more. The undesirability of ambiguity in the meaning of the expression is as misleading as imposing into the statute what the interpreter conceives the legislature meant by the words it used. It has been held that the language used is not to be stretched either in favour of the state or narrowed down in favour of the tax payer…. Clarity and un-equivocality are the guiding indicia for the construction of revenue provisions. Anything outside them would lead to the conclusion that there was no intention to impose the tax prescribed in the provision.*[57]

Judges are urged to hearken to the above well-reasoned exhortation.

There are other principles of statutory interpretation utilized *vis-à-vis* tax statutes. They include:

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[56] (1972) C 109.
[57] K.A.G. Karibi-Whyte, *op cit*, 85, 88-89.

i. A tax must be expressly imposed upon the subject by the clear words of the statute;

ii. The words of the Act must be given their natural meaning;

iii. Where the meaning of a statutory provision is ambiguous, the taxpayer must be accorded the benefit of doubt;

iv. There is no equity in taxation;

v. Where the meaning of the statute is clearly expressed, the court will not have regard to any contrary intention or belief of the Legislature;

vi. Where the meaning of the statute is not clear, it should, if possible, be construed so as to carry out the expressed or presumed intention of the Legislature;

vii. Ambiguity may be resolved by subsequent legislation;

viii. In applying the appropriate statutory provision to a given set of facts, the court will not go beyond the form of the transaction or document concerned and have regard to the substance unless the form is a 'mere sham';

ix. A taxing statute must be read as a whole; and

x. The court should not assume any general principle underlying taxing statutes and remaining unexpressed.[58].

[58] See generally, A.L. Suleman, *op cit*, 375-378; M.N. Umenweke, M.N. Umenweke, *Tax Law and its Implications for Foreign Investments in Nigeria* (Enugu: Nolix Educational Publications (Nig), 2008),33-34; M.T. Abdulrazaq, *Cases and Materials on Nigerian Taxation* (Lucknow: Eastern Book Company, 2016), 171; M.T. Abdulrazaq, *Taxation System in Nigeria* (Lagos: Gravitas Legal & Business Resources Ltd, 2016), 36-37; *IRC v Duke of Westminster* (1936) AC 1; *Marina Nominees Ltd v FBIR* FCA/L/20/83; *Ormond Investment v Betts* (1928) AC 143; *Astor v Perry* (1935) AC 398; *Luke v IRC* (1936) AC 557; *Brown v National Provident Institution* (1921) 2 AC 222; *Adamson v Attorney General* (1938) AC 257; *FBIR v Omotosho* (1973) N. COMM. LR 369; *Littman v Barron* (1951) 33

4. Conclusion and Recommendations

Since taxation is entirely statutory, the interpretation of provisions in tax statutes is of great importance. That is why this article was conceived. In the foregoing lines, an attempt has been made to synthesize the extant scholarly and judicial views and offer some contribution in this area in order to provide guidance to judges in the interpretation of tax statutes.

It must be emphasized that judges must be circumspect in construing tax statutes and the Legislature must also be fastidious in enacting tax statutes. It is also observed that in view of the practical implication of the tax regime on the finances of citizens and the general development of the nation, there is a need for the judges and lawyers alike who practice in the area of taxation to understand the intricacies of tax laws.

In this wise, it is suggested that a tax or revenue court be created and manned by lawyers who are experts in tax law because they will significantly appreciate this area of law more than the average 'generalist' Judge. In the alternative, the tax appeal tribunals can be upgraded to the status of a high court and be manned exclusively by people who are experts in tax law. Regular training and retraining must also be conducted to improve the knowledge of Judges of the proposed tax or revenue court of tax appeal tribunal, as the case may be. This will galvanize them and accentuate the erudition of their judgments.

It is also suggested in alternative to the foregoing recommendations, that there is a need for increased workshops and seminars on the legal regime for taxation in Nigeria for members of the Bench as well as the members of the Bar.

Tax is essentially expropriatory, so tax statutes must be clearly enacted and interpreted in a lucid manner predicated on well-established principles that are in consonance with the best practices.

TC 373 at 380; *IRC v Priestley* (1901) AC 208 at 213 and *AG v Prince Ernest Augustus of Hanover* (1957) AC 436 at 463.