

Supreme Court Affirms Taxability of Private Schools

In a landmark judgment delivered on 19 June 2026, the Supreme Court of Nigeria dismissed the appeal filed by Best Children International School Limited against the Federal Inland Revenue Service (FIRS), upholding the concurrent findings of the Federal High Court and the Court of Appeal. The apex court, in Suit No: SC.38/2019, definitively resolved the question of whether private educational institutions operating as companies limited by shares are entitled to tax exemption under Section 23(1)(c) of the Companies Income Tax Act (CITA), Cap. C21, Laws of the Federation of Nigeria, 2004.

Background of the Dispute

The Appellant, Best Children International School Limited, is a private limited liability company incorporated under the Companies and Allied Matters Act. The company operates primary and secondary educational institutions in Abuja and generates revenue primarily through school fees paid by students. Following a demand for Company Income Tax by the Respondent, the Appellant instituted proceedings at the Federal High Court seeking judicial review and an order prohibiting FIRS from imposing or enforcing tax liabilities against it, arguing that its profits were statutorily exempted under Section 23(1)(c) of CITA.



The Federal High Court dismissed the Appellant's suit, holding that the company did not qualify for tax exemption because, as a company limited by shares, it was registered as a profit-making venture rather than an educational institution of a public nature.

Dissatisfied, the Appellant appealed to the Court of Appeal, which unanimously affirmed the trial court's decision. The Court of Appeal held that the Appellant failed to demonstrate that its educational activities were of a "public character" or that its profits were not derived from a trade or business.

The Supreme Court's Decision

Delivering the lead judgment, Hon. Justice Moore Aseimo Abraham Adumein, JSC, with the concurrence of Justices Mohammed Lawal Garba, Tijiani Abubakar, Haruna Simon Tsammani, and Habeeb Adewale Olumuyiwa Abiru, dismissed the appeal for lacking merit. The Court adopted a sole issue for determination: "Whether or not the appellant is exempt from payment of corporate tax by virtue of Section 23(1)(c) of the Companies Income Tax Act.

Key Holdings and Rationale

1. Strict Interpretation of Tax Exemption Provisions

The Court reaffirmed the principle that tax exemption provisions must be strictly construed. Section 23(1)(c) provides that the

following profits shall be exempt from tax: **"The profits of any company engaged in ecclesiastical, charitable or educational activities of a public character in so far as such profits are not derived from a trade or business carried on by such company."**

The Court held that the provision is clear, plain, and unambiguous. Relying on the principle articulated by Idigbe, JSC, in *Obianwuna Ogbunyiya v. Obi Okudo* (1979), the Court reiterated that courts must adhere to the grammatical and ordinary sense of statutory words unless doing so would lead to absurdity.

2. Characterisation of a Company Limited by Shares

The Court observed that the Appellant was a private company limited by shares, and not a company limited by guarantee. The profits accruing to a company limited by shares are distributable among shareholders based on their contributions, as expressly stated in its Memorandum and Articles of Association.

The Court found that the Appellant had failed to adduce any evidence demonstrating that its educational activities were of a "public character" or that its profits were not derived from a trade or business. It was further noted that the Appellant did not exhibit its particulars of registration as an academic institution of a public character. The mere fact that a school is open to the public does not, by itself, confer the status of "public character" as contemplated by the statute.

3. Burden of Proof on the Taxpayer

The Court rejected the Appellant's contention that the evidential burden had been improperly placed upon it. It held that where a taxpayer claims entitlement to a statutory

exemption, the burden rests squarely on that taxpayer to prove that he falls within the exempted class. The Appellant's failure in this instance to provide cogent evidence, including details of its corporate structure, the nature of its operations, and the application of its profits, was fatal to its case.

4. Concurrent Findings of Fact

The Supreme Court reiterated the settled principle that it will not ordinarily depart from concurrent findings of fact made by the Federal High Court and the Court of Appeal unless such findings are shown to be perverse or erroneous.

The Appellant failed to demonstrate any such perversity, and the Court accordingly declined to interfere with the concurrent decisions of the lower courts.

Subsidiary Issues Addressed

Allegation of Denial of Fair Hearing

The Appellant contended that the Court of Appeal failed to pronounce on one of the issues raised for determination, thereby constituting a denial of fair hearing. While acknowledging the general principle that an intermediate court should endeavour to resolve all issues placed before it, the Court held that failure to consider every issue does not automatically amount to a denial of fair hearing or a miscarriage of justice.

In this case, the resolution of the primary issue regarding the construction of Section 23(1)(c) adequately covered the subsidiary complaints raised by the Appellant.

Obiter Dictum on Tax Compliance and Public Benefits

In an obiter observation, the Court underscored the civic responsibilities of incorporated companies, including registration with the appropriate tax authority, obtaining taxpayer identification numbers, maintaining accurate accounting records, filing periodic tax returns, and remitting PAYE and withholding taxes. The Court further observed that efficient tax collection and accountable expenditure facilitate the funding of public goods, infrastructure, education, healthcare, and social protection programmes.

Practical Implications for Private Educational Institutions

This judgment establishes the following principles with significant implications for the education sector and tax administration in Nigeria:

1. Private schools operating as companies limited by shares are not automatically exempt from Company Income Tax.

The mere provision of educational services does not confer exemption unless the institution can prove that it is of a "public character" and that its profits are not derived from a trade or business.

2. The burden of proof rests on the claimant.

Any company seeking to rely on tax exemption provisions must present credible evidence to establish its qualification, including the nature of its incorporation, its profit distribution policies, and the public character of its activities.

3. Companies limited by guarantee, rather than by shares, are better positioned to claim the exemption, provided they can demonstrate that they are non-profit entities and that their activities are genuinely of a public character.
4. The decision reinforces FIRS's enforcement powers and serves as a warning to profit-driven entities attempting to shelter under statutory exemptions intended for charitable, ecclesiastical, and genuinely non-profit public institutions.

Conclusion

The Supreme Court's judgment in *Best Children International School Limited v. FIRS* (2026) provides much-needed clarity on the scope of tax exemptions for educational institutions in Nigeria. The apex court has unequivocally affirmed that the legislature did not intend for the exemption under Section 23(1)(c) of CITA to encompass private, profit-oriented schools operating as companies limited by shares.

Taxpayers seeking the benefit of statutory exemptions must satisfy the stringent conditions prescribed by law, and the burden of proof rests squarely with the party asserting exemption.

This decision aligns with the broader judicial trend of strictly interpreting tax exemption provisions and reinforces the constitutional imperative for all profit-making entities to contribute their fair share to the national treasury.

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