

WHEN TIME MEETS TAX: LEGAL ANALYSIS OF OANDO PLC V. FIRS

Introduction

The decision of the Tax Appeal Tribunal (the “TAT” or “Tribunal”) in *Oando Plc v. Federal Inland Revenue Service* brings into sharp focus the time-of-application question for tax penalties. At its core, the Tribunal had to decide whether a harsher penalty regime introduced by the Finance Act 2023 could validly apply to a default that occurred after the legislation commenced but in respect of an earlier Year of Assessment (YoA). The Tribunal’s answer hinged on a conceptual bifurcation between (i) the period in which income is earned and assessed (the taxable period) and (ii) the window in which filing obligations fall due (the compliance period).

This article analyzes the Tribunal’s reasoning, evaluates the Appellant’s reliance on *Accugas Ltd v. FIRS*, and interrogates the doctrinal and policy consequences of separating taxable and compliance periods. It then updates the implications and conclusion in light of Nigeria’s 2025 tax codification the Nigeria Tax Act 2025 (NTA 2025) and the Nigeria Tax Administration Act 2025 (NTAA 2025) which commenced in 2026 and materially alter the penalty landscape for defaults that crystallize thereafter.

The Taxable Period and the Compliance Period: A Jurisprudential Recalibration

The Appellant advanced a unitary-year theory: that the 2023 YoA constituted an indivisible fiscal block and that the penalty regime for that year should be fixed by the law operating for the greater part of 2023. The Tribunal declined that view and instead separated the taxable period from the compliance period. On the Tribunal’s account:

The taxable period (here, 1 January–31 December 2023) is the accounting interval during which income is earned and profits accrue for assessment.

The compliance period is the statutory window for fulfilling filing obligations (e.g., a corporate return due several months after year-end).

Crucially, the Tribunal located the Late Returns Penalty (LRP) not in the earning or assessment of income, but in the failure to perform a statutory filing duty. The cause of action therefore arose on the first day after the statutory deadline, and because the Finance Act 2023 had already commenced before that date, the Tribunal treated the default as occurring wholly under the new penalty regime.

The result is a temporal decoupling: substantive tax liability adheres to the taxable period, while compliance penalties attach prospectively to conduct during the compliance window.

The Focal Question: Was the Appellant’s Reliance on *Accugas Ltd v. FIRS* Misplaced?

The Appellant’s case was anchored on *Accugas Ltd v. FIRS*, where the Federal High Court held that amendments introduced by the Finance Act 2019 could not be applied to a financial year that had already been concluded prior to the commencement of the legislation. The Appellant contended that applying the Finance Act 2023 penalty regime to the 2023 YoA amounted to ‘impermissible retroactivity’.

The Case for the Appellant’s Reliance

From a taxpayer protection perspective, the reliance on *Accugas* offer intuitive traction.. Tax legislation traditionally treats the fiscal year as a closed unit for purposes of substantive tax liability; altering consequences mid-year can be framed as impermissible retroactivity.

Moreover, Section 6(1) of the Interpretation Act preserves rights, obligations, and liabilities accrued under repealed enactments. The Appellant argued that the lower penalty regime constituted an accrued right or legitimate expectation, particularly since the Finance Act was introduced part-way through the year (1st September, 2023).

There is also an equity based argument that drastic increases in penalties (as is the case, from NGN10,000 to NGN10,000,000), introduced partway through the financial year, undermine certainty and fairness in tax administration, principles that modern tax jurisprudence increasingly emphasize.

The Case Against the Appellant’s Reliance (The Tribunal’s Reasoning)

The Tribunal distinguished *Accugas* on factual and doctrinal grounds. In *Accugas*, the amendment altered the substantive tax consequences of a financial year that had already been completed before the law came into force. By contrast, in *Oando*, the Finance Act 2023 commenced during the accounting year and before the statutory filing deadline. The Tribunal’s reasoning is that while *Accugas* prevents the State from retrospectively altering tax liabilities for income already earned and assessed, it does not prevent the legislature from prescribing enhanced sanctions for future compliance failures.

On this reasoning, penalties crystallise not during the fiscal year but at the moment of default. Therefore, applying the Finance Act 2023 penalty regime to a default that occurred in 2024 is prospective, not retrospective.

This approach is in line with orthodox principles that the applicable law is the law in force at the time the cause of action arises, as articulated in *Zubair v. Kolawole* and related authorities.

The Strict Construction of Tax Laws

The Tribunal reinforced the classical canon that tax statutes are to be construed strictly and literally. Citing *Ahmadu v. Governor of Kogi State* and *FBIR v. Halliburton*, the Tribunal emphasised that there is no equity in taxation and that courts must not strain statutory language to achieve perceived fairness. Once the Finance Act 2023 clearly stipulated an initial penalty of ₦10,000,000 and ₦2,000,000 for each subsequent day of default, the Tribunal held that it had no discretion to mitigate the harshness of the penalty. This reflects a traditional revenue oriented interpretive posture, though it sits uneasily with contemporary trends favouring taxpayer certainty. Modern tax administration increasingly emphasises predictability, fairness, and the reasonable expectation of taxpayers, particularly when penalties are severe. From a policy perspective, overly harsh or unexpected penalties introduced mid-year or that appear disproportionate to the underlying default can undermine voluntary compliance, distort corporate planning, and raise questions about fairness. In other words, while the Tribunal's strict literalist approach safeguards government revenue, it may be at odds with emerging principles in tax law that aim to balance the state's fiscal interests with taxpayers' legitimate expectations and reliance on existing legal rules as gleaned from the case of *Accugas Ltd v. FIRS* (2022).

The Implications of the Dichotomy between Taxable and Compliance Period

The Tribunal's distinction between the taxable period and the compliance period is analytically attractive but raises questions. Tax obligations are typically anchored to fiscal periods, and penalties are ancillary to those obligations. Whether penalties can be entirely divorced from the tax year to which they relate remains contestable. With Nigeria's tax codification—the NTA 2025 and NTAA 2025—taking full effect from 1 January 2026, the logic of the TAT in the *Oando* case becomes even more consequential. A filing or remittance default that arises in 2026 will ordinarily be sanctioned under the new administrative penalty framework, even if the return relates to an earlier accounting period, because the cause of action is the 2026 non-compliance, not the earlier earning of income.

In view of the NTA 2025 and NTAA 2025 which took effect from 1 January 2026 and following the reasoning of the Tribunal, a filing or remittance default that arises in 2026 will ordinarily be sanctioned under the new administrative penalty framework, notwithstanding that the return relates to an earlier accounting period; this follows the same temporal logic the Tribunal applied in *Oando*, namely that the cause of action for a late-filing penalty accrues at the time of non-compliance during the compliance period, not when profits accrued during the taxable period.


In practical terms, the NTAA 2025 prescribes, among others, ₦100,000 for the first month of failure to file a required return and ₦50,000 for each subsequent month; late remittance of collected taxes attracts the principal sum, a 10% administrative penalty, and interest at the prevailing CBN Monetary Policy Rate; failure to deduct withholding tax triggers an administrative penalty of 40% of the amount that ought to have been deducted; and specified technology/fiscalisation breaches attract ₦1,000,000 on the first day and ₦10,000 for each additional day of default. The NTA 2025 also consolidates stamp-duty rules and imposes a 30-day stamping timeline with penalty and MPR-linked interest, signalling a broader compliance net around ancillary obligations that may be triggered within the same compliance window.

Further, with the transition of FIRS to the Nigeria Revenue Service (NRS) under the 2025 reforms, enforcement capacity and the penalty architecture are expected to tighten as the regime takes full effect in 2026.

Conclusion

Against this statutory backdrop, the Tribunal's bifurcation between the taxable period and the compliance period is likely to be reinforced rather than weakened under the 2025 codification: where a company misses a 2026 deadline, the sanctions applied will be prospective under the NTAA/NTA regime even if the underlying Year of Assessment is earlier, thus blunting retroactivity challenges of the *Accugas* variety. In consequence, taxpayers face expanded and multi-layered exposures in 2026: recurring monthly penalties for late filing, daily sanctions for technology/fiscalisation non-use or access refusals, surcharge plus MPR-linked interest on late remittances, and sector-specific penalties (including for VASPs), all under the 2025 Acts as they commence. The prudent response is to front-load 2026 compliance (especially for returns tied to earlier accounting periods), harden internal controls around WHT/VAT deduction and remittance, and engage early with the NRS on any grey areas to limit accrual based penalty exposure under the new framework.

Contact Us

 Hermon Legal Practitioners
@Hermonlaw
hermon@hermonlaw.com
Hermon Legal Practitioners
hermonlaw.com
Penthouse Suite, Theodolite House, 306 Ikorodu
Road Anthony, Anthony, Lagos.
+234-818-8210-444

