**CITN REJOINDER TO THE ICAN PUBLICATION ON SUIT NO. LD/3288GCM/2019**

The attention of the Chartered Institute of Taxation of Nigeria (CITN) has been drawn to a Notice entitled **“Update on Suit No. LD/3288GCM/19 – CITN VS ICAN”** issued by the Institute of Chartered Accountants of Nigeria (ICAN) and dated 6/7/2020. The Notice contains some critical misrepresentations which will be addressed as follows.

1. The Ruling of the Hon. Justice S. A. Onigbanjo of the 2/7/2020 in LD/3288GCM/19 did not invalidate the MOU and TOS because it did **NOT** address the issues in the substantive suit, itself. However, since ICAN has resiled from the MoU and ToS it freely entered with CITN, the CITN will not stop ICAN from walking away.
2. The Judge only struck out the suit based on the Preliminary Objection of ICAN to the effect that the suit was an abuse of court process because the issues in it were the same as the issues in **FHC/L/CS/125/2019 – ICAN VS FIRS & 1 OTHER** which was earlier decided in favour of CITN. However, the issues in the two suits are completely **different** and **distinct** as has now been explicitly admitted by ICAN in its Notice under reference when it said:

*“The earlier ruling at the Federal High Court in Suit No. FHC/L/CS/125/2019 did not make pronouncement on the memorandum and terms of settlement between ICAN and CITN.”*

ICAN having admitted that the judgment in FHC/L/CS/125/2019 did not make any pronouncement on the MOU and TOS (and this is a fact), how then could issues in that suit be the same as those in **LD/3288GCM/2019** (decided by Justice Onigbanjo) which only asked for judicial pronouncement on the MOU and TOS?

1. Regulation 5 of the Tax Administration (Self-Assessment) Regulations, 2011, was categorically annulled by the Hon. Justice Liman in the judgment delivered in FHC/L/CS/125/2019 on 21/11/2019. None of the lawyers to the parties (including ICAN) can deny hearing the annulment of Regulation 5 during delivery of the judgment. It is unfortunate that ICAN is jumping the gun in a case with a pending post-judgement application.
2. In the judgment delivered in **FHC/L/CS/1480/2018 – CHIEF IGBAROOLA & OTHERS VS FIRS & OTHERS** on 21/5/2019, the Hon. Justice A. O. Faji, declared: *“CITN Act is thus superior to ICAN Act on the issue of tax practice. The Self-Assessment Regulations being in conflict with the CITN Act is null and void. The Plaintiffs cannot practice as tax agents without first being members of the 2nd Defendant.”*
3. In the Court of Appeal judgement of 2013 between ICAN v. CITN, it was held that the power to regulate and control the tax profession, to the exclusion of any other body, in Nigeria lies with CITN.
4. It is, therefore, now firmly settled from all the relevant judgements at the Lagos High Court, Federal High Court and the Court of Appeal, which have all upheld the primacy of the CITN Charter, that no member of ICAN can practice taxation without first being a member of CITN.
5. For the avoidance of doubt, no ICAN member, who is not registered with CITN, has been permitted by any law or court decision to practice taxation. The law has made it clear about the professional body that can regulate tax profession in NigeriaandCITN reserves the right to invoke the relevant provisions against any person that violates the provisions of its charter.

Dated 7th July, 2020.

Adefisayo Awogbade, FCTI

Registrar/Chief Executive

Chartered Institute of Taxation of Nigeria