

## **STATE AGENCY ON SIGNAGE AND ADVERTISEMENT HAS NO POWERS TO IMPOSE AND COLLECT LEVIES OUTSIDE THEIR JURISDICTIONAL SCOPE**

**N**OTICE  
**O**  
**T**  
**C**  
**U**  
**D**  
**R**  
**O**  
**R**  
**T**  
**I**  
**N**  
**I**  
The High Court of Ondo State delivered a landmark judgment in Suit No AK/309/2022, holding that the Ondo State Signage and Advertisement Agency (OSSAA) overstepped its statutory authority by imposing and collecting advertisement levies from entities outside its jurisdictional purview. This decisive ruling constitutes a significant milestone in administrative law and statutory interpretation, specifically concerning the powers and limitations of governmental agencies.

The instant case arose from a dispute between a Fast Moving Consumer Goods business (FMCG) operating outside Ondo State, and the Ondo State Signage and Advertisement Agency (OSSAA). The agency imposed advertisement levies on the company, which OSSAA subsequently petitioned against for non-payment. In response, the FMCG Company challenged the legality of the levies, prompting a judicial review of OSSAA's actions. The central issue before the court was whether OSSAA's imposition of advertisement levies from the Company constituted an ultra vires act, i.e., an exercise of power beyond what was granted by its enabling statute.

This analysis will provide an in-depth examination of the case, including:

1. The factual background and circumstances leading to the dispute.
2. The legal arguments presented by both parties.
3. The court's reasoning and decision-making process.
4. The broader implications of this landmark judgment on administrative governance, regulatory practices, and the exercise of power by governmental agencies.

## **BACKGROUND FACTS OF THE CASE**

The suit was initiated by way of petition, wherein the Ondo State Signage and Advertisement Agency (OSSAA) is the petitioner and the FMCG Company is the respondent. The OSSAA, as an agency of the Ondo State Government is vested with the statutory responsibility for assessing and collecting tariffs, fees and charges for signage and advertisement within Ondo State. The respondent is a manufacturing company, specializing in the production of baby diapers, sanitary pads, adult diapers, and other products, with offices located in Ogun and Lagos States.

The suit revolves around the OSSAA's claim of an alleged debt of N25,000,000.00 (Twenty-Five Million Naira), purportedly owed by the respondent for annual fees, levies and charges related to product branding, sales promotional materials, and trade visibility materials within Ondo State from 2017 to 2021.

The petitioner predicates its claims on the provisions the Ondo State Signage and Advertisement Agency Law 2021, which, it contends, entitles it to receive the aforementioned fees and charges. Conversely, the respondent, raised a preliminary objection challenging the OSSAA's jurisdiction and the validity of the claim.

## **ISSUES RAISED**

The instant suit raised several significant issues, particularly in the respondent's preliminary objection. While the court ultimately focused on the fundamental issue of jurisdiction, some of the more nuanced arguments presented by the petitioner appear to have been subsumed within this broader concern.

In response to the petitioner's claim, the respondent raised the following grounds of challenge:

### **THE ISSUE OF LOCUS STANDI:**

The respondent contended that the petitioner lacked locus standi to present the petition, arguing that only the Local Government in the Federal Republic of Nigeria has the authority to do so. The respondent relied on Section 1(k) of the Fourth Schedule to the Constitution of the Federal Republic of Nigeria, 1999, and Section 20 of the Part III of the Taxes and Levies Approved List for Collection Act, CAP T13 LFN 2004.

In context, Section 1(k)(i) of the Fourth Schedule to the Constitution empowers local governments to control and regulate outdoor advertising. Therefore, the argument is that since the Constitution vests this authority in local governments, the Ondo State Signage and Advertisement Agency is not the proper party to bring a petition for default in payment of tariffs, fees, and charges for signage and advertisement.

This argument is significant as it presented an opportunity for the Ondo State High Court to provide a judicial elaboration on the agency's powers to collect charges for outdoor advertisements and bring petitions for default in payment. The Court, however, did not address this issue, instead focusing on the broader considerations of jurisdiction and non-disclosure of reasonable cause of action, which is discussed later in this Review

In our opinion, the Ondo State Signage and Advertisement Agency lacks the power to collect charges for outdoor advertisements or bring petitions for default in payment. This submission is based on the fundamental principle of constitutional supremacy.

Since the constitution vests control and regulation of outdoor advertising in local governments, no agency or body can exercise this function. Any law granting such authority to an agency would be void to the extent of its inconsistency with the Constitution.

### **RETROSPECTIVE NATURE OF THE CLAIM**

The respondent further argued that the levies purportedly claimed by the petitioner are retrospective in nature, rendering them null and void. The Ondo State Signage and Advertisement Agency Law, which governs the petitioner's actions, only came into effect in 2021. However, the petitioner's assessment made by the petitioner spans from 2017 to 2021, thereby imposing a retroactive application of the law.

It is a well-established principle of law that a law cannot have retroactive effect. Unfortunately, the court did not address this issue, leaving it unresolved.

### **THE LACK OF JURISDICTION AND FAILURE OF THE PETITIONER'S SUIT TO DISCLOSE REASONABLE CAUSE OF ACTION AGAINST THE RESPONDENT:**

The court consolidated the issues raised in the respondent's preliminary objection, including locus standi, into a single question of jurisdiction. The court held that the petitioner's suit lacked merit and failed to disclose a reasonable cause of action against the respondent.

The court reiterated the facts established by the respondent's affidavit, namely that the company's head office is located only in Lagos and Ogun States; and that it does not engage in any commercial or promotional activities in Ondo State. Consequently, the court concluded that the Ondo State agency lacks the authority to collect charges for outdoor marketing from the respondent. Furthermore, the court observed that Section 5 of the Ondo State Signage and Advertisement Agency Law, which outlines the petitioner's functions, does not extend to manufacturing or production activities outside Ondo State.

Additionally, the court noted that an advertising agency, such as the petitioner, is not empowered to regulate the manufacturing or production of goods.

## **CONCLUSION**

The Court's decision in this case serves as a significant affirmation of the rule of law and the principle of judicial restraint, emphasizing that governmental agencies must operate within their legally defined boundaries. By holding that the Ondo State Signage and Advertising Agency (OSSAA) exceeded its jurisdictional limits in demanding and collecting advertisement levies, the court has established a precedent that underscores the importance of clear statutory interpretation and adherence to the scope of authority granted by legislation.


This judgment not only protects businesses and individuals from administrative overreach but also serves as a reminder to regulatory bodies of the necessity to respect their jurisdictional limits. As such, it constitutes a significant victory for lawful governance and the rights of those subject to regulatory oversight.

Notably, the court was presented with an opportunity to address the legality of the Ondo State House of Assembly's creation of the OSSAA, given that the relevant laws grant the power to regulate advertisements to Local Government Councils. Although the court did not explicitly address this issue, it remains a critical question that warrants attention in future litigation.

Ultimately, this decision reinforces the importance of judicial oversight in ensuring that governmental agencies operate within their statutory authority, thereby upholding the principles of constitutional supremacy and the rule of law.




The JEE team that handled this case was led by Partner and Head of Litigation & Dispute Resolution Department:



**Obafemi Agaba**  
Partner, Head, Litigation &  
Dispute Resolution Department



**Abdulhafeez Mohammad**  
Senior Associate, Litigation &  
Dispute Resolution Department



**Irene Momoh**  
Senior Associate, Litigation &  
Dispute Resolution Department



**Ed-David Kolawole**  
Associate, Litigation & Dispute  
Resolution Department

## Key Contacts

For further information, kindly reach the key contacts below:



### **OBAFEMI AGABA**

Partner, Head of Litigation  
& Dispute Resolution  
Department.

(234) 1 4626841/3

E: obafemi.agaba@jee.africa



### **TOYOSI ODUNMBAKU**

Partner, Litigation & Dispute  
Resolution Department.

(234) 1 4626841/3

E: toyosi.odunmbaku@jee.africa

#### **Victoria Island**

RCO Court,  
3-5 Sinari Daranijo Street,  
Victoria Island,  
Lagos, Nigeria

#### **Tel**

+234-1-4626841/3,  
+234-1-2806989

#### **Email**

jee@jee.africa

#### **Abuja**

42, Moses Majekodunmi Crescent,  
Utako, FCT, Abuja

#### **Ikeja**

1st floor, ereke house,  
Plot 15, CIPM Avenue  
CBD Alausa Ikeja  
Lagos Nigeria

#### **Accra**

3 Emmause, 2nd Close  
Akosombo House  
Labone, Accra, Ghana  
P.O. Box 14951  
Accra, Ghana

#### **Yaoundé**

3rd Floor, Viccui Building  
Apt. 15-16, Carr Street  
New Town, Yaoundé  
Cameroon

#### **Harare**

38 Clairwood Road,  
Alexandra Park,  
Harare,  
Zimbabwe.