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**REVENUE OF THE FEDERATION AND  
CONSTITUTIONAL JURISDICTION:  
REASSESSING THE SUPREME COURT IN  
A.G., ABIA STATE & ORS. v. A.G., FEDERATION<sup>1</sup>**

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## Introduction

The term “revenue of the Federal Republic of Nigeria” (in précis, “revenue of the Federation”) encompasses all sums standing to the credit of all the federating units of the federation and liable to be paid into the Federation Account. Guided by the principle of the common good, the revenue of the Federation is held in trust for the collective benefit of all its constituent units, such that each federating unit is entitled to benefit therefrom in furtherance of the overall welfare of the Federation. Consequently, any dispute between the Federation and a State or States, or between States, touching on the subject matter of the revenue of the Federation, whether involving questions of law, fact, or mixed law and fact, falls, in the ordinary course, within the jurisdiction of a policy-making court. Instructively, the same Constitution of the Federal Republic of Nigeria, 1999 (as amended), which establishes the framework governing the revenue of the Federation, also expressly confers original and exclusive jurisdiction on the Supreme Court to adjudicate disputes between the Federation and a State, or between States. In clear terms, section 232(1) provides that:

*“The Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute between the Federation and a State or between States if and in so far as that dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends.”*

Recently, in *A.G. of Kaduna State & Ors. v. A.G. of the Federation & Ors.*,<sup>2</sup> while construing the scope and purport of section 232(1) of the Constitution, the Supreme Court held as follows:

**“... there is nothing in S.232(1) of the Constitution limiting the exclusive original jurisdiction it has given this Court to any subject matter or excluding any subject matter from it... the scope of the original jurisdiction is over "any dispute between the Federation and a State or between States if and in so far as that dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends." It did not exclude some type of such disputes.”**

The foregoing leads inexorably to the conclusion that the Supreme Court is vested with original and exclusive jurisdiction over any dispute between the Federation and a State, or between States, irrespective of the subject matter, including disputes relating to “revenue” however described or characterised, provided that such dispute involves a question of law or fact upon which the existence or extent of a legal right depends. This jurisdictional competence flows directly from section 232(1) of the Constitution and admits of no subject-matter limitation once the constitutional threshold is met.

A corollary of the above position is that the incompetence of a court to entertain and determine the principal question is enough to nullify the whole proceedings and judgment in any matter brought before the court.<sup>3</sup> This

<sup>1</sup> SC/CV/395/2021 delivered on 23rd May 2025

<sup>2</sup> (2023) LPELR-59936(SC)

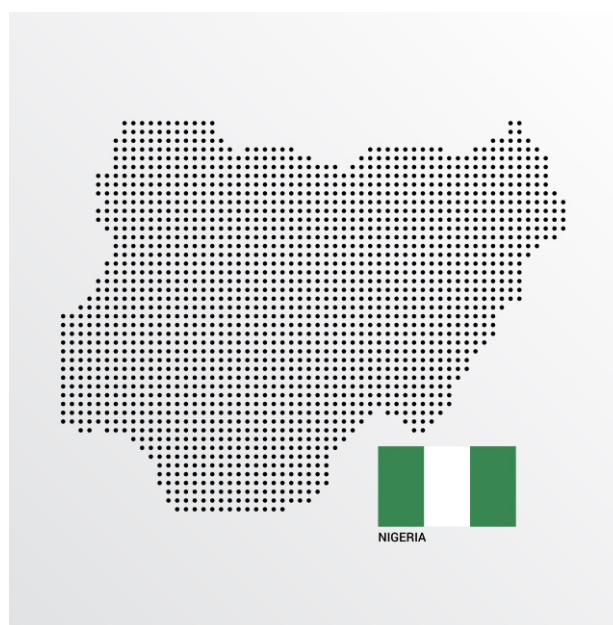
<sup>3</sup> *Turkur v. Govt. of Gongola State* (1989) 4 NWLR (Pt. 117) (p. 549 para A)

principle is grounded in the notion that there is no room for half Judgment in any matter brought before a Court or Tribunal.<sup>4</sup> Consequently, where a court exists that has jurisdiction over the principal issue and all matters incidental to it, it is improper to approach a court that is competent only to hear some ancillary issues.<sup>5</sup> It is therefore well-established that a court cannot adjudicate over ancillary claims if it lacks jurisdiction over the main claim, and particularly if the ancillary claims will inevitably involve a discussion of the main claims.

When the case between A.G., Abia State & Ors. v. A.G., Federation (Supra)<sup>6</sup> was filed at the registry of the Supreme Court of Nigeria invoking its exclusive original jurisdiction to decide among other issues, the issue of whether having regards to provisions of the Constitution and other statutory provisions, receipts, income, returns or proceeds derived from all assets recovered, seized, confiscated, and/or forfeited to the Federal Republic of Nigeria constitute revenue payable to the Federation Account instead of the Consolidated Revenue Account of the Federal Government or any other account, arose. The expectation was that the apex Court would assert jurisdiction and deliver a policy-making ruling, thereby facilitating the restitution of the proceeds of corruption to their rightful and prior legitimate owners, a remedy tantamount to providing just compensation to the victims of the crime (i.e being the Federation or the Federal Republic of Nigeria including its constituent components such as the States and Local Governments), in line with the UNCAC principles.<sup>7</sup>

However, contrary to the prevailing expectation that the Supreme Court would assert its jurisdiction, the Supreme Court firmly declined jurisdiction when in its judgment dated 23rd May 2025, it upheld the Defendant's Preliminary Objection to the jurisdiction of the court on the ground that the reliefs sought fall squarely within the exclusive original jurisdiction of the Federal High Court.

Hence, this article critiques the Supreme Court's judgment in A.G., Abia State & Ors. v. A.G., Federation, to the extent that considering the circumstances peculiar to this case, the court of finality may have failed to avert its mind to the constitutional and otherwise glaring distinctions between “revenue of the Federation” and “revenue of the government of the Federation”, thereby undermining constitutional and international principles as well as the instrumental objective for the reallocation of recovered assets into the Federation Account for the benefit of constituents of the Federation of Nigeria or Federal Republic of Nigeria.



<sup>4</sup> Nospetco Oil & Gas Ltd V. Olorunnimbe & Ors. (2021) LPELR-55630(SC) (Pp. 57-58 paras. D)

<sup>5</sup> Turkur v. Govt. of Gongola State (Supra)

<sup>6</sup> See note 1

<sup>7</sup> The UNCAC (United Nations Convention Against Corruption)



### Factual Background of A.G., Abia State & Ors. v. A.G., Federation (Supra)

Albeit concisely, the Plaintiffs, comprising the 36 constituent states of the Federal Republic of Nigeria, contended that, following the Federal Government's commitment to recover public funds looted and hidden in private and offshore accounts, several asset recovery initiatives were launched. These efforts reportedly achieved significant success, resulting in the forfeiture of assets in foreign jurisdictions, including the Abacha Loot and other funds. The Plaintiffs maintained that such recoveries constitute revenue or receipts that, by law, must be remitted into the Federation Account for the collective benefit of all tiers of government—Federal, State, and Local. They further contended that any diversion or alternative use of these funds is unconstitutional and constitutes a violation of the constitutionally protected fiscal rights of States and Local Government Councils.

In opposition to the Plaintiffs' case as constituted before the apex court, the Defendant filed a Preliminary Objection challenging the jurisdiction of the supreme court to entertain the Plaintiffs' application on several grounds including that the hallowed Supreme Court lacks the original jurisdiction to entertain the suit and that the Plaintiffs' action relates to the revenue of the

Government of the Federation, over which the Federal High Court is vested with exclusive jurisdiction, by virtue of Section 251 (1) (a) of the Constitution. Grounds which, in our view, starkly contradict the clear, unambiguous, and literal intent, spirit and letters of the supreme source of all laws in Nigeria (including case laws), the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

In response to the Preliminary Objection challenging the original jurisdiction of the Supreme Court to entertain the subject matter of the revenue accruing to the Federation or the Federal Republic of Nigeria, the Plaintiffs submitted that there is a clear distinction between Federation of Nigeria and Federal Government of Nigeria especially regarding the subject matter of the dispute in the case which clearly falls outside the scope of Section 251 of the 1999 Constitution which relates basically, literally and simply to the “revenue of the Government of the Federation.”<sup>8</sup>

### The verdict of the Supreme Court

In its ruling on the Preliminary Objection, the Supreme Court found merit in the Defendant's application holding that the subject matter of the suit (being the revenue of the Federation) lies squarely within the exclusive jurisdiction of the Federal High Court as provided for in Section 251 (1) (a) of

<sup>8</sup> Section 251 (1) (a) of the constitution of the Federal Republic of Nigeria, 1999 (as amended).

the 1999 Constitution. The court thereby struck out the suit for want of original jurisdiction of the Supreme Court to entertain same.

### Brief Analysis of Party and Subject-Matter Focus of the Exclusive Original Jurisdiction of the Supreme Court

The exercise of the Supreme Court's exclusive original jurisdiction is principally governed by two constitutional considerations: the identity of the parties before the Court and the subject matter for adjudication. These requirements are cumulative conditions imposed by the Constitution, and both must coexist for the Supreme Court to validly assume jurisdiction.

From a party-centric perspective, the Court's exclusive original jurisdiction is strictly confined to disputes between the Federation and a State, or between States, as derived directly from Section 232(1) of the 1999 Constitution. Courts have consistently held that the parties contemplated under this provision must be the Federation itself or the constituent States of the Federation—not the Federal Government or State Governments in their administrative capacities, nor their officers, servants, or agencies.<sup>9</sup> Furthermore, under Section 1(1)(a) of the Supreme Court (Additional Jurisdiction) Act, 2002, the Supreme Court is similarly vested with exclusive original jurisdiction over specified parties, including matters between the National Assembly and the President, the National Assembly and any State House of Assembly, and the National Assembly and a State of the Federation.

In line with settled constitutional interpretation principles—which encourage a liberal construction by Courts so that the intendment of the Constitution can be met—only the parties identified under Section 232(1) of the Constitution and Section 1(1)(a) of the Supreme Court (Additional Jurisdiction) Act may validly sue or be sued under the Supreme Court's exclusive original jurisdiction.

Once the parties are properly constituted, the subject matter of the suit must then be examined to ensure it falls within the purview of Section 232(1). For example, in *Attorney General of Kano State v. Attorney General of the Federation*,<sup>10</sup> although the parties appeared proper on the face of it, the Supreme Court refused to exercise original jurisdiction because the dispute was between Kano State and the Inspector-General of Police—not the Federation. This underscores that acts of agents or agencies of parties under the purview of section 232 (1) of the 1999 Constitution, cannot, by themselves, invoke the Supreme Court's original jurisdiction under Section 232(1).

Similarly, in *Governor of Ondo State v. President of the Federation*,<sup>11</sup> the Supreme Court affirmed that only it has exclusive original jurisdiction, by virtue of Section 212(1) of the 1979 Constitution, to hear disputes between the Federation and a State. The constitutional implication is that no other court in Nigeria may entertain such disputes, regardless of their nature. However, even if the parties are properly constituted, the Supreme Court may decline jurisdiction if the subject matter falls outside the scope

<sup>9</sup> A.G Federation V. A.G Lagos State (2017) LPELR-42769(SC) (Pp. 35-36 Paras. C)

<sup>10</sup> (2007) 6 NWLR (Pt. 1029) 164

<sup>11</sup> (1985) 6 NCLR 681

contemplated under Section 232(1) of the Constitution. By necessary implication, the Supreme Court cannot exercise its exclusive original jurisdiction over disputes between private individuals or between Federal and State Governments. Moreover, corporate or statutory bodies cannot invoke the Supreme Court's exclusive original jurisdiction nor be made parties to suits properly initiated under this jurisdiction.<sup>12</sup>

Distinct from party identity is the analysis of the subject matter, which focuses on the scope and nature of the dispute submitted for adjudication. The Supreme Court assumes original jurisdiction only when the case involves a dispute—whether of law, fact, or both—that falls within its constitutional mandate. Specifically, such a dispute must concern the existence or extent of a legal right between the parties. In other words, the Supreme Court's exclusive original jurisdiction is triggered only by subject matters presenting a genuine question concerning the existence or extent of a legal right between the parties.<sup>13</sup>

This principle was clearly articulated in **Attorney-General of the Federation v. Attorney-General of Abia State & Ors**,<sup>14</sup> where the Supreme Court clarified that the dispute must disclose a real controversy affecting legal rights, particularly in matters involving constitutional powers, fiscal rights, or territorial interests between the Federation and the States. The Court reaffirmed this in **Attorney-General of the Federation v. Attorney-General of Imo State**,<sup>15</sup> emphasizing that the existence of a concrete dispute affecting the parties' legal rights is a condition precedent to exercising its original jurisdiction.

In **A.G., Kano State v. A.G.**,<sup>16</sup> Federation the Court held that the character of the dispute, as qualified by the section, must involve a question—whether of law or fact—upon which the existence or extent of a legal right depends. The apex Court has consistently held that constitutional rights qualify as legal rights for this purpose.<sup>17</sup> It must therefore be clearly established that the dispute falls within the section's purview and constitutes a justiciable matter—that is, one appropriate for judicial determination.

Over time, the apex court tended to adopt a restrictive approach to interpreting the subject matter requirements necessary to invoke its exclusive original jurisdiction. However, this approach was definitively clarified in the recent landmark case **A.G. Kaduna State & Ors. v. A.G. of the Federation & Ors (Supra)**. In that judgment, the Supreme Court affirmed that the scope of its exclusive original jurisdiction is neither limited nor confined to specific categories of subject matter. Rather, it extends to any dispute between the Federation and a State, or between States, insofar as the dispute involves a question—whether of law or fact—upon which the existence or extent of a legal right depends. Importantly, the Court expressly rejected any exclusion of particular types of disputes from its jurisdictional ambit, thereby broadening the interpretative framework and reinforcing the Court's constitutional role as a policy-making court.

<sup>12</sup> AG Anambra State V. AG Federation (2007) LPELR-24343(SC) (Pp. 95-97 paras. F)

<sup>13</sup> A.G., Federation v. A.G., of Abia State & Ors (Supra) (2001) 11 NWLR (Pt. 725)

<sup>14</sup> (1982) 12 SC 274; (1982) 3 NCLR 1

<sup>15</sup> (2007) LPELR-618(SC) (Pp. 13-15 paras. B)

<sup>16</sup> President FRN & Anor v. National Assembly & Ors. (2022) LPELR-58516(SC) (Pp. 18-21 paras. A)

## A Constitutional Distinction: Revenue of the Federation versus Revenue of the Government of the Federation

Revenue of the Federation and Revenue of the Government of the Federation are worlds apart in legal meaning and implication. This issue is not novel within the four walls of the courtroom in Nigeria. In **A.G., Bauchi State v. A.G., Federation**,<sup>18</sup> it was contended by the Plaintiff in that case that there is a world of difference between “revenue of the Federation” and “revenue of the Government of the Federation”. The key distinction may be rightly drawn from the constitutional concepts of the term “Federation” and “Government of the Federation”. These terms, although occurring severally in the constitution, derive their separate meanings, forms, and nature from the same enduring Constitution to the people of Nigeria.

The conclusive paragraphs of the preamble to the Constitution ties the “People” to the “Federal Republic of Nigeria”.<sup>19</sup> This is to the effect that it is the firm and solemn resolve of the people to live in unity and harmony as one indivisible and indissoluble sovereign Nation to be known by the name of the Federal Republic of Nigeria that births the promotion of good government, whether at the constituent 36 States and the FCT, Abuja or the government of the Federation.

By virtue of Section 318 of the 1999 Constitution of the Federal Republic of Nigeria (as amended), “Federation” is defined as “the Federal Republic of Nigeria”. The same constitution further reveals that Nigeria shall be a “Federation” consisting of States and the Federal Capital Territory.

Hence, in the case of **A.G., Federation v. A.G., Anambara State**,<sup>20</sup> the Supreme Court held as follows:

*“Simply put, the word Federation means Federal Republic of Nigeria, which presently consists of 36 states, and the Federal Capital Territory called Abuja.”*

Meanwhile, the introductory paragraphs of the preamble to the Constitution recognizes the “Government of the Federation” as the Federal Government of the Federal Republic of Nigeria.<sup>21</sup> As defined by the Constitution, “Government” includes the Government of the Federation or of any State, or of a local government council or any person who exercises power or authority on its behalf”.<sup>22</sup> Government of the Federation is a narrower term than the “Federal Republic of Nigeria”, being only one part of it. The Federal Republic of Nigeria includes both the government and the governed. Government of the Federation is only the machinery through which the purposes of the Federation as a unit are sought to be realized. Hence, in the case of **A.G., Federation v. A.G., Anambra State** (Supra) the apex Court again held that:

*“There is a clear difference between the “Federation” or “Federal Republic of Nigeria” on the one hand and “Government of the Federation” or “Federal Government” on the other hand. Whereas the Federation refers to the federating units comprising of all the States and the Federal Capital Territory, the Federal Government or Government of the Federation refers to the Executive arm of the Government, which contrasts with the legislative powers and judicial powers domiciled in the National*

<sup>18</sup> (2018) 17 NWLR (Pt. 1648) 299

<sup>19</sup> Preamble to the Constitution of the Federal Republic of Nigeria, 1999 (as amended)

<sup>20</sup> A.G. Federation v. A.G. Anambra State (2017) LPELR-43491(SC) (Pp. 59-60 paras. C)

<sup>21</sup> ibid

<sup>22</sup> Section 318 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)

*Assembly and the Judiciary respectively. From the Statement of Claim and its relevant paragraphs, references to the Plaintiff are pertaining to the Federal Government or the Executive arm of Government of the Federation which references are distinct from the Federation which carries with it all its three arms of Government.”*

Having regard to the foregoing distinction, the poser arising for resolution is whether the legal draftsmen of the constitution in couching Sections 232 (1) and 251 (1) (a) of the Constitution 1999 (as amended), vesting original jurisdictions on the Supreme Court and Federal High Court respectively, recognized the distinction between disputes relating to revenue of the “Federation” and revenue of the “Government of the Federation”.

For context and ease of appreciation, the said sections are reproduced hereunder as follows:

**232 (1)** *“The Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute between the Federation and a State or between States if and in so far as that dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends.”*

**251 (1)** *“Notwithstanding anything to the contrary contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the Federal High Court shall*

*have and exercise jurisdiction to the exclusion of any other court in civil causes and matters –*

(a) *relating to the revenue of the Government of the Federation in which the said Government or any organ thereof or a person suing or being sued on behalf of the said Government is a party;”*

Pause for a moment and be mindful that in interpreting statutes (such as the above provisions), Courts are urged to apply the ordinary meaning of words used in the statute. The Court cannot infer an intention which does not appear in the words of the enactment, neither is a Court allowed to read into an enactment words or sections which the legislature did not state as part of the statutes.<sup>23</sup> In the case of **A.G., Kano State v. A.G., Federation**,<sup>24</sup> the Supreme Court held as follows:

*“It is now well settled that the duty of this Court and indeed any other Court, is to interpret the words contained in the Constitution, and any statute in their ordinary and literal meaning. Certainly, it is not the duty of the Court to go outside words used in a statute and import an interpretation which may be or is convenient to it or to the parties or to one of the parties.”*

That said, Sections 251 (1) (a) of the Constitution as couched by the draftsman of the Constitution unambiguously vests original jurisdiction in the Federal High Court in respect of matters relating to the revenue of the “**Government of the Federation**” in which the said “**Government**” or any organ

<sup>23</sup> Independent National Electoral Commission & Anor. v. Muri Edet Etim Asuquo (2018) 9 NWLR (Pt. 1624) (P. 326, paras. F-G)

<sup>24</sup> (2007) 6 NWLR (Pt. 1029) (P. 188-189; paras. H-A)

thereof or a person suing or being sued on behalf of the said “**Government**” is a party. By necessary implication, disputes between States and the Federation concerning the revenue of the Federation, in which the legal rights of any State or of the Federation are in issue, fall outside the purview of the Federal High Court and are instead reserved for the exclusive original jurisdiction of the Supreme Court under Section 232(1), as constitutionally intended.

### Ownership, Source, And Distribution of Revenue in Relation to the Federation vis-à-vis the Government of the Federation

Elementary distinctions between the “revenue of the Federation” and the “revenue of the Government of the Federation” can, through statutory frameworks, be clearly established and advanced to promote a more nuanced jurisprudential understanding of revenue-related matters subject to the original jurisdiction of the Supreme Court and the Federal High Court, respectively.

Nominally, Nigeria is a federation with one distributable pool account called the ‘Federation Account’. Constitutionally, this account is credited by revenues collected by the Government of the Federation in its capacity as a revenue collection agent for the Federation. Crucially, the fiscal responsibility to collect revenues on behalf of the Federation does not ipso facto designate such collected funds as “revenue of the Government of the Federation.” The trustee relationship for collection of revenue created under Section 162(1) of the 1999 Constitution (as amended) between the

Federation and the Federal Government calls for careful and context-sensitive interpretation. A close and precise reading of Section 162(3) reveals that the revenue standing to the credit of the Federation Account belongs jointly to the component political units that make up the Federal Republic of Nigeria, underscoring the essence of Nigeria's fiscal federalism. In clear terms, Section 162 (3) of the Constitution states:

**162 (3)** *“Any amount standing to the credit of the Federation Account shall be distributed among the Federal and State Governments and the local government councils in each State on such terms and in such manner as may be prescribed by the National Assembly.”*

Instructively, certain revenues collectible by the Government of the Federation, including proceeds from the Pay-As-You-Earn (PAYE) tax of personnel in the Armed Forces, Nigeria Police Force, Foreign Service Officers, and residents of the Federal Capital Territory, are expressly exempted from being paid into the Federation Account. Instead, these and other revenues not payable into the Federation Account are paid into the Federal Government Account or Consolidated Revenue Fund as revenue of the Government of the Federation, to be appropriated and expended solely by the Federal Government in accordance with constitutional and statutory prescriptions, thus, maintaining a distinct revenue of the Government of the Federation from the revenue of the Federation.<sup>25</sup>

<sup>25</sup> Section 80 of the 1999 Constitution (as amended).

The 'revenue of the Government of the Federation,' as contemplated under Section 251 of the 1999 Constitution (as amended) and falling within the original jurisdiction of the Federal High Court, refers specifically to monies credited to the Federal Government Account, or the Consolidated Revenue Fund, and/or other funds maintained exclusively for the benefit of the Government of the Federation. This constitutional delineation is critical for proper interpretation and judicial determination of revenue-related disputes. It prevents the indiscriminate conflation of all revenue matters, whether relating to the **Federation** or to the **Government of the Federation**, under Section 251.<sup>26</sup> Importantly, disputes concerning the 'revenue of the Federation,' particularly those involving the Federation and a State or between States, ought to fall within the exclusive original jurisdiction of the Supreme Court under Section 232(1).

To put the matter beyond doubt, the draftsman, in a deliberate and successful effort to distinguish clearly between the revenue of the Federation and the revenue of the Government of the Federation, dedicates Part VII of the Public Finance Management Act, 2024 to provisions specifically dealing with Federal Government Revenue or Revenue of the Government of the Federation. The said Act provides that the Federal Government revenue encompasses all income accruing specifically to the Government of the Federation, including: its constitutionally allocated share of the Federation Account; its share of Value Added Tax, Electronic Money Transfer Levies, and Stamp Duties; other revenues paid into special government funds, distinct from the

Consolidated Revenue Fund; as well as aids, grants, and independent revenues derived from ministries, departments, and agencies, investments, fees, fines, and other internally generated sources.<sup>27</sup>

### On the Original Jurisdiction of the Supreme Court on Revenue of the Federation

The Supreme Court is a Court of finality, in the sense that no appeal shall lie to any other body from any determination of the Court. The justices that man the Court are of course fallible, but their judgments are, as the Constitution intends, infallible.<sup>29</sup> This principle is reinforced by the doctrine of stare decisis et non quieta movere, that is, to stand by what has been decided and not disturb and unsettle things which are established. It was on this foundation that the panel of seven Justices in **A.G. Abia State & Ors. v. A.G. Federation (Unreported)**, relying on **A.G. Bauchi State v. A.G. Federation (supra)** and **A.G. Abia State & 35 Ors. v. A.G. Federation (supra)**, impliedly affirmed that matters relating to the 'revenue of the Federation' fall within the original jurisdiction of the Federal High Court under Section 251(1)(a) of the 1999 Constitution (as amended), as those earlier cases had been understood to establish as judicial precedents.

However, it is trite law that what constitutes binding precedent in a previous case is not the concrete decision in that case but rather the enunciation of the reason or principle upon which the question before the Court was decided.<sup>30</sup> The question that follows up is, what, exactly, were the principles or reasons articulated in the earlier cases that

<sup>26</sup> of the 1999 Constitution (as amended)

<sup>27</sup> Section 27 (2) of the Public Finance Management Act, 2024

<sup>28</sup> Anchorage Leisures Ltd & Ors V. Ecobank (Nig) Ltd (2023) LPELR-59978(SC) (PP. 11-12 PARAS. F)

<sup>29</sup> Adigun & Ors V. Governor of Osun State & Ors (1995) LPELR-178(SC) (PP. 29-30 PARAS. C)

<sup>30</sup> See *Adesokan v. Adetunji* (1994) 5 NWLR (Pt. 346)

being treated as binding precedents on whether disputes touching on the revenue of the Federation may be invoked before the Supreme Court in its original jurisdiction?

In **A.G. Bauchi State v. A.G. Federation (supra)**, for example, the grounds upon which the preliminary objection challenging the Supreme Court's original jurisdiction was framed did not, in substance, present before the Court any issue relating to the 'revenue of the Federation.' Rather, one of the grounds was predicated on the issue that:

- i. The Plaintiff's action relates to the Revenue of the Government of the Federation, the taxation of companies and involves claim against the Nigeria Custom Services, as such is outside the original jurisdiction of the Supreme Court.

In its ruling, the Supreme Court observed, albeit by way of obiter dictum, that the Plaintiff's complaint touched on matters connected to the 'revenue of the Federation,' particularly regarding signature bonuses, dividends from NLNG, privatization proceeds, proceeds from the sale of government property, education tax, corporate taxation, and other similar streams of revenue. Also, the Plaintiff's reliefs as observed by the Court, were framed as declarations and injunctions challenging the validity of executive and administrative actions or decisions of the Federal Government and several of its agencies. Furthermore, the Court concluded that, the causes of action, as presented, concerned acts or omissions of Federal agencies, statutory bodies, and even private entities. It was on

this basis that the Court articulated the following reasoning:"

*“The situation that has been brought to fore seem the need to settle disputes in relation to the revenue of the Federation which rings a warning bell that the management and administration of the said revenue is on the front burner and therefore the need to correlate what is before the Court with the provisions of Section 251 of the 1999 Constitution of the Federal Republic of Nigeria which has been provided for matters pertaining to administration, management and control of the Federal Government and its agencies and anchored on provisions of section 162 of the Constitution of the Federal Republic of Nigeria are to be tackled firstly at the Federal High Court.”*

A careful reading of this reasoning reveals that the precedent established in that case was not that every dispute involving the 'revenue of the Federation' automatically falls within the jurisdiction of the Federal High Court. Rather, the Supreme Court emphasised that the particular complaint before it related to the **management and administration of the Federation's revenue**, an inquiry that Section 251 of the 1999 Constitution (as amended) expressly assigns to the Federal High Court where Federal agencies and their administrative actions are implicated.

This is fundamentally distinct from a dispute between a State and the Federation in which the central question is the constitutional right of the State or the Federation to a portion of the 'revenue of the Federation'. Such disputes

raise issues of constitutional law tied directly to the existence, scope, or enforcement of the legal rights of a State or of the Federation. In those circumstances, jurisdiction is reserved exclusively for the Supreme Court under Section 232(1) of the 1999 Constitution (as amended).

This position was affirmed in **Governor of Ondo State v. President of the Federation (Supra)** where the Supreme Court held unequivocally that it is only the Supreme Court that has exclusive jurisdiction by virtue of section 212(1) of the 1979 Constitution<sup>31</sup> to hear and determine a dispute between the Federation on the one hand and the State on the other. Thus, where the gravamen of the complaint concerns the constitutional allocation or distribution of the 'revenue of the Federation' and the legal rights of a State or the Federation arising therefrom, the Supreme Court, not the Federal High Court, ought to be the proper and exclusive Court of first instance.



## Abraham Lincoln's Call for the Imperative of Legal Obedience

The price paid for finality in litigation is that the notion or the dread of infallibility has been sacrificed by the Constitution on the alter of finality.<sup>32</sup> However, the judgments of a Court should not be treated with sacred sanctity, once it gets to the right critical forum.<sup>33</sup> It is in this light that the present critique is offered.

The Supreme Court's decision in A.G., Abia State & Ors. v. A.G., Federation may reflect a misapprehension of the constitutional distinction between the "revenue of the Federation" and the "revenue of the Government of the Federation" and its implications for interpreting the jurisdictional powers conferred on the Courts under Sections 232 and 251 of the 1999 Constitution (as amended).

However, just as Abraham Lincoln, in 1838, called for 'a reverence for the Constitution and laws,' we equally affirm that same reverence here. As Lincoln declared:<sup>34</sup>

*"When I so pressingly urge a strict observance of all the laws, let me not be understood that there are no bad laws, nor that grievances may not arise, for the redress of which no legal provisions have been made. I mean to say no such thing. But I do mean to say, that although bad laws, if they exist, should be repealed as soon as possible, still while they continue in force, for the sake of example, they should be religiously observed."*

<sup>31</sup> The provision contained in Section 212 of the Constitution of the Federal Republic of Nigeria 1979 is now reflected in Section 232 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

<sup>32</sup> Adigun & Ors V. Ag Oyo State & Ors (No.2) (1987) LPELR-40648(SC) (Pp. 27-30 Paras. 6)

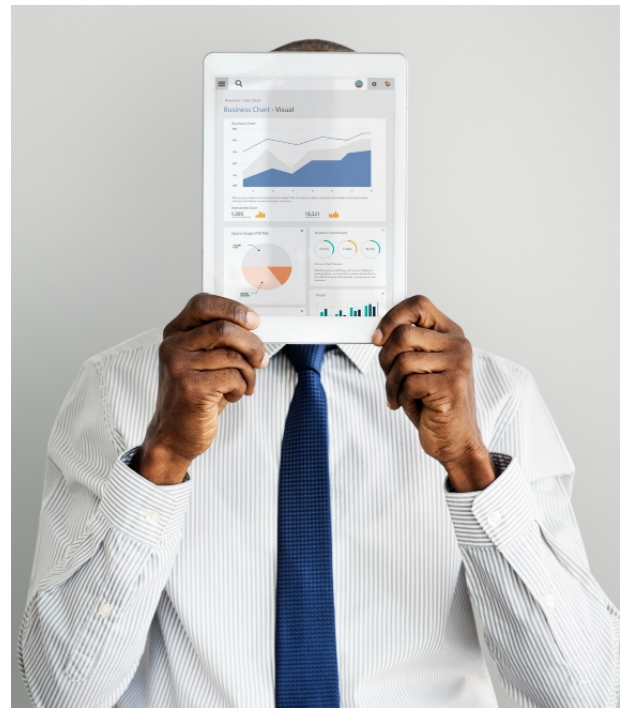
<sup>33</sup> Adigun & Ors V. Ag Oyo State & Ors (Supra)

<sup>34</sup> Brest, P., Levinson, S. V., Balkin, J. M., & Amar, A. R. (2000). Processes of constitutional decisionmaking: Cases and materials (4th ed.). Aspen Law & Business.

## Conclusion

The examination of the Supreme Court's decision in A.G., Abia State & Ors. v. A.G., Federation reveals a critical tension at the heart of Nigeria's constitutional architecture regarding revenue disputes involving the Federation or States and where it involves governments at all levels or its agencies. Central to this discourse is the often overlooked but constitutionally vital distinction between the “revenue of the Federation” and the “revenue of the Government of the Federation.” As above analysis has demonstrated, this differentiation is neither semantic nor trivial; rather, it carries profound implications for the jurisdictional competence assigned to Nigeria's courts, particularly the allocation of exclusive original jurisdiction between the Supreme Court and the Federal High Court under Sections 232 and 251 of the 1999 Constitution (as amended), respectively.

Disputes over revenue standing to the credit of the Federation Account, which belongs collectively to the constituent units of the Federal Republic of Nigeria, ought to fall within the Supreme Court's original jurisdiction. In contrast, matters involving the Federal Government's own revenue may rightly be adjudicated by the Federal High Court pursuant to 251 (1) of the 1999 Constitution. The Supreme Court's refusal to assert jurisdiction in this case suggests a conflation of these distinct revenue disputes, risking the erosion of the fiscal rights of the federating units and Nigeria's federal principles.



Moving forward, there is a need for clearer judicial adherence to constitutional jurisdictional boundaries to uphold federal balance, strengthen intergovernmental trust, and support effective recovery of looted public funds. The Courts must remain vigilant guardians of constitutional clarity to ensure equitable distribution of the Federation's wealth and preserve Nigeria's fiscal federalism.



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