

Filed on 29/06/2023
at 9:20 am/pm
Registrar.
SUPREME COURT OF GHANA

IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT
ACCRA - A.D. 2023

WRIT TO INVOKE THE ORIGINAL JURISDICTION OF THE SUPREME COURT

01/17/2023

1. **JAMES AFEDO FOUNDATION**
C/o No. 14 Awuley Nfeni Link
Dzorwulu
Accra
GA-120-1087

2. **JAMES KOFI AFEDO ESQ.**
Unnumbered House
Off Akatsi-Abor Highway
Agbaflome - Akatsi
Volta Region

PLAINTIFFS

VERSUS

1. **ATTORNEY-GENERAL**
Ministry of Justice & Attorney-General
Ministries
Accra

2. **COMMISSIONER-GENERAL,
GHANA REVENUE AUTHORITY**
Ghana Revenue Authority
Ministries
Accra

3. **THE SPEAKER**
House of Parliament
Accra

DEFENDANTS

TO:

1. THE ATTORNEY-GENERAL
 2. COMMISSIONER-GENERAL, GHANA REVENUE AUTHORITY (GRA)
 3. THE SPEAKER, HOUSE OF PARLIAMENT
-

IN THE NAME OF THE REPUBLIC OF GHANA, you are hereby **COMMANDED within fourteen (14) days after the service on you** of the statement of the Plaintiff's case inclusive of the day of service, that you are to file or cause to be filed for you a statement of the Defendant's case in an action at the suit of:

1. JAMES AFEDO FOUNDATION
2. JAMES KOFI AFEDO ESQ.

THE RELIEFS SOUGHT ARE AS FOLLOWS:

1. A declaration that upon a true and proper interpretation of the provisions of **Articles 17(1), 17(2), 17(3), and 17(4), 24(1), 25(1) and 33(5)** of the Constitution of Ghana 1992, **Section 1 of the Excise Duty Act 2014 (Act 878) as amended by Excise Duty (Amendment) (No.2) Act 2015 (Act 903)** which imposes 20% Excise Duty on menstrual hygiene products including sanitary pads, sanitary towels, menstrual cups and tampons is unconstitutional, null and void; same being inconsistent with, and in contravention of the above-stated provisions of the Constitution of Ghana, 1992.
2. A declaration that upon a true and proper interpretation of the provisions of **Articles 17(1), 17(2), 17(3), and 17(4), 24(1), 25(1)**

and 33(5) of the Constitution of Ghana 1992, the imposition of 20% Excise Duty on menstrual hygiene products including sanitary pads, sanitary towels, menstrual cups and tampons by the Defendants under **Section 1 of the Excise Duty Act 2014 (Act 878) as amended by Excise Duty (Amendment) (No.2) Act 2015 (Act 903)** is unconstitutional, null and void; same being inconsistent with, and in contravention of the above-stated provisions of the Constitution of Ghana, 1992.

3. A declaration that upon a true and proper interpretation of the provisions of **Articles 17(1), 17(2), 17(3), and 17(4), 24(1), 25(1) and 33(5)** of the Constitution of Ghana 1992, the imposition of 20% Excise Duty on menstrual hygiene products including sanitary pads, sanitary towels, menstrual cups and tampons by the Defendants under **Section 1 of the Excise Duty Act 2014 (Act 878) as amended by Excise Duty (Amendment) (No.2) Act 2015 (Act 903)** is sexually discriminatory, violates the economic, educational and health rights of females, and therefore unconstitutional, null and void; same being inconsistent with, and in contravention of the above-stated provisions of the Constitution of Ghana, 1992.
4. A declaration that upon a true and proper interpretation of the provisions of **Articles 17(1), 17(2), 17(3), and 17(4), 24(1), 25(1) and 33(5)** of the Constitution, 1992, the collection of the said 20% Excise Duty on menstrual hygiene products including sanitary pads, sanitary towels, menstrual cups and tampons by the 1st Defendant under the authority of the said **Section 1 of the Excise Duty Act 2014 (Act 878) as amended by Excise Duty (Amendment) (No.2) Act 2015 (Act 903)** is unconstitutional, null and void; same being

inconsistent with, and in contravention of the above-stated provisions of the Constitution of Ghana, 1992.

5. A declaration that upon a true and proper interpretation of the provisions of **Articles 17(1), 17(2), 17(3), and 17(4), 24(1), 25(1), and 33(5)** of the Constitution, 1992, the exclusion or omission or failure by the Defendants to include menstrual hygiene products such as sanitary pads, sanitary towels, menstrual cups and tampons in the list of products exempted by **Section 2 of the Excise Duty Act 2014 (Act 878) as amended by Excise Duty (Amendment) (No.2) Act 2015 (Act 903)** from the 20% Excise Duty is unconstitutional, null and void; same being inconsistent with, and in contravention of the above-stated provisions of the Constitution, 1992.
6. A declaration that upon a true and proper interpretation of the provisions of **Articles 17(1), 17(2), 17(3), and 17(4), 24(1), 25(1), and 33(5)** of the Constitution, 1992, the exclusion or omission or failure by the Defendants to include menstrual hygiene products such as sanitary pads, sanitary towels, menstrual cups and tampons in the list of pharmaceutical products subject to zero per centum Excise Duty in the **First Schedule of the Excise Duty Act 2014 (Act 878) as amended by Excise Duty (Amendment) (No.2) Act 2015 (Act 903)** is unconstitutional, null and void; same being inconsistent with, and in contravention of the above-stated provisions of the Constitution of Ghana, 1992.
7. A declaration that upon a true and proper interpretation of the provisions of **Articles 17(1), 17(2), 17(3), and 17(4), 24(1), 25(1), and 33(5)** of the Constitution, 1992, **Section 1 of the Value**

Added Tax Act, 2013 (Act 870) and the Value Added Tax Regulations, 2016 (L.I. 2243) which imposes 17% Value Added Tax (VAT) on menstrual hygiene products including sanitary pads, sanitary towels, menstrual cups and tampons is unconstitutional, null and void; same being inconsistent with, and in contravention of the above-stated provisions of the Constitution of Ghana, 1992.

8. A declaration that upon a true and proper interpretation of the provisions of **Articles 17(1), 17(2), 17(3), and 17(4), 24(1), 25(1), and 33(5)** of the Constitution, 1992, the imposition of 17% Value Added Tax (VAT) on menstrual hygiene products including sanitary pads, sanitary towels, menstrual cups and tampons by the Defendants under **Section 1 of the Value Added Tax Act, 2013 (Act 870) and the Value Added Tax Regulations, 2016 (L.I. 2243)** is sexually discriminatory, violates the economic, educational and health rights of females, and therefore unconstitutional, null and void; same being inconsistent with, and in contravention of the above-stated provisions of the Constitution of Ghana, 1992.
9. A declaration that upon a true and proper interpretation of the provisions of **Articles 17(1), 17(2), 17(3), and 17(4), 24(1), 25(1), and 33(5)** of the Constitution, 1992, the collection of 17% Value Added Tax (VAT) on menstrual hygiene products including sanitary pads, sanitary towels, menstrual cups and tampons by the 2nd Defendant, under the authority of **Section 1 of the Value Added Tax Act, 2013 (Act 870) and the Value Added Tax Regulations, 2016 (L.I. 2243)** is unconstitutional, null and void; same being inconsistent with, and in contravention of the above-stated provisions of the Constitution of Ghana, 1992.

10. A declaration that upon a true and proper interpretation of the provisions of **Articles 17(1), 17(2), 17(3), and 17(4), 24(1), 25(1), and 33(5)** of the Constitution, 1992, the exclusion or omission or failure by the Defendants to include menstrual hygiene products including sanitary pads, sanitary towels, menstrual cups and tampons on the list of products exempted from VAT in the First Schedule pursuant to **Section 35(1) of the Value Added Tax Act, 2013 (Act 870)** is unconstitutional, null and void; same being inconsistent with, and in contravention of the above-stated provisions of the Constitution of Ghana, 1992.
11. A declaration that upon a true and proper interpretation of the provisions of **Articles 17(1), 17(2), 17(3), and 17(4), 24(1), 25(1), and 33(5)** of the Constitution, 1992, the exclusion or omission or failure by the Defendants to include menstrual hygiene products including sanitary pads, sanitary towels, menstrual cups and tampons on the list of zero-rated taxable products in the Second Schedule pursuant to **Section 36(1) of the Value Added Tax Act, 2013 (Act 870)** is unconstitutional, null and void; same being inconsistent with, and in contravention of the above-stated provisions of the Constitution of Ghana, 1992.
12. An order directed at the 1st and 2nd Defendants to refund all Excise Duties and Value Added Taxes collected from the date of enforcement of both taxes to the date of this Court's judgment, to be paid into a **Menstrual Justice Trust Fund** to be established and managed by the **Menstrual Health Coalition**, the proceeds of which shall be used to procure and distribute menstrual hygiene products to all girls in all Junior and Senior High Schools under the

supervision of the Parents-Facilitators Association of Ghana across all regions of the country.

13. An order directed at the 1st and 2nd Defendants to pay interest on the said refund sum at the commercial bank lending rate from the date of effectiveness of the taxes until the date of final payment.
14. An order for injunction restraining the Defendants from further collecting the 20% Excise Duty and 17% Value Added Tax on menstrual hygiene products until the final determination of this suit.
15. An order of prohibition, perpetually preventing the Defendants from ever proposing, discussing, considering and imposing any sexually discriminatory taxes on menstrual hygiene related products.
16. An order for the payment of the Plaintiffs' legal fees and costs of the instant enforcement action.
17. Any other order(s) as this Honorable Court may deem fit and just in the circumstances.

THE CAPACITY IN WHICH THE PLAINTIFFS ARE BRINGING THIS ACTION:

The Plaintiffs bring this action in their capacities as a corporate citizen and citizen respectively of the Republic of Ghana who are interested in social justice, gender equity, economic empowerment, and defence of fundamental human rights across Ghana, to seek the interpretation and/or enforcement of the provisions of the Constitution of Ghana, 1992 under Articles 2(1) and 130(1)(a) thereof.

THE ADDRESS FOR SERVICE FOR THE PLAINTIFFS AS FOLLOWS:

Plaintiffs' Counsel on record is as follows:

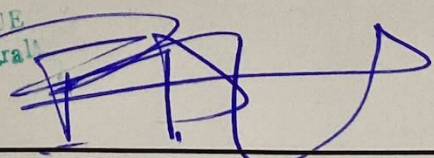
- 1. BELLAH DJIBRILLA FAISAL ESQ.**
Akpalu, Yartey & Associates
No.25 Watson Avenue
(Behind Holy Spirit Cathedral)
Adabraka
Accra

THE NAMES AND ADDRESSES OF PERSONS AFFECTED BY THIS WRIT ARE AS FOLLOWS:

- 1. ATTORNEY-GENERAL**
Ministry of Justice & Attorney-General
Ministries
Accra
- 2. COMMISSIONER-GENERAL, GHANA REVENUE AUTHORITY**
Ministries
Accra
- 3. THE SPEAKER**
House of Parliament
Accra

DATED AT ACCRA THIS 27TH DAY OF JUNE 2023

AKPALU, YARTEY & ASSOCIATES
NO. 25 WATSON AVENUE
(Behind Holy Spirit Cathedral)
ADABRAKA—ACCRA
TEL: 0302 235069


BELLAH DJIBRILLA FAISAL ESQ.
LAWYER FOR THE PLAINTIFFS
LIN. NO.: eGAR01764
BP NO.: 3746

**THE REGISTRAR,
SUPREME COURT,
ACCRA.**

AND FOR SERVICE ON:

The above-named Defendants.