[2018] UKFTT 0227 (TC)

TC06460

Appeal number: TC/2017/05962

VALUE ADDED TAX – penalty for failure to take reasonable steps to notify the Respondents of an under-assessment – penalty equal to 15% of the "potential lost revenue" – definition of "potential lost revenue" discussed – consideration of whether there were "special circumstances" and whether the penalty was disproportionate - penalty upheld

FIRST-TIER TRIBUNAL
TAX CHAMBER

CURTISES LIMITED	**Appellant**
- and -	
THE COMMISSIONERS FOR HER MAJESTY'S REVENUE & CUSTOMS	**Respondents**

TRIBUNAL: JUDGE TONY BEARE
MRS JANET WILKINS

Sitting in public at Taylor House, 88 Rosebery Avenue, London EC1R 4QU on 28 February 2018

Mr C Harness and Ms O Curtis for the Appellant

Mr D Baird, officer of HM Revenue and Customs, for the Respondents

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DECISION

Background

1. This is an appeal against a penalty of £26,948.25 which has been assessed on the Appellant under paragraph 2 of Schedule 24 to the Finance Act 2007 ("Schedule 24") in respect of its annual VAT period ending 12/16 (the "relevant VAT period").

2. The figures set out in this decision have been taken from a ledger maintained by the Respondents in relation to the Appellant, which was helpfully provided by the Respondents at the hearing, and a letter from the Respondents to the Appellant dated 6 July 2017, which appeared at page 19 of the hearing bundle. Certain of these figures differ from the figures given by the Appellant in its response to the Respondents' statement of case. If it transpires following this decision that any of the figures on which we have relied in reaching this decision are incorrect, the parties are directed to make the appropriate changes to the penalty to reflect the principles inherent in this decision.

The facts

3. The Appellant is a small company with less than 10 employees that was formed in January 2015. It experienced significant growth in its second year of trading – its turnover increased from approximately £700,000 in 2015 to approximately £2.75 million in 2016.

4. The Appellant made monthly direct debit payments to the Respondents over the course of, and immediately after the end of, the relevant VAT period under the annual accounting scheme. These amounted in aggregate to £32,499.43.

5. However, it did not submit its VAT return in respect of the relevant VAT period on time and therefore the Respondents issued an assessment in respect of the relevant VAT period to the Appellant on 17 March 2017 in the amount of £35,578.00. This is the assessment which is the basis of the present appeal.

6. By its own admission, the Appellant was aware at the time that it received the assessment that the assessment was too low. It knew that its aggregate liability in respect of the relevant VAT period was greater than both the amount that it had paid by way of monthly direct debit and the amount shown in the assessment although, at that stage, it did not know the precise amount of each shortfall.

7. However, the Appellant did not inform the Respondents of its belief. Instead, it merely paid the sum of £46,131.00 to the Respondents on 5 April 2017. (There is some uncertainty as to why the Appellant paid the precise amount that it did, given that the assessment was in the amount of £35,578.00 and it had already paid £32,499.43 by way of direct debit. But, for present purposes, all that is relevant is that it is clear from the figures referred to in paragraph 2 above that the Appellant paid £32,499.43 to the Respondents by way of direct debit before the assessment was issued and then paid a further £46,131.00 to the Respondents following the issue of the assessment).

8. On 18 May 2017, the Respondents wrote to the Appellant, pointing out that they had still not received the missing VAT return for the relevant VAT period but that they had noted the payment made in the previous month and asking for further information in relation to the relevant VAT period by 8 June 2017.

9. On 25 May 2017, an employee of the Appellant telephoned the Respondents to explain that the reason for the delay in filing the return was because the Appellant was struggling to cope with the growth in its business and to say that the Appellant knew that the amount shown in the assessment was too low.

10. On 7 June 2017, the return for the relevant period was submitted. It revealed that the VAT liability for the relevant VAT period was in fact £215,233.43, which was £179,655.43 higher than the amount shown in the assessment of 17 March 2017 and £136,603.00 higher than the amount of VAT already paid to the Respondents in respect of the relevant VAT period. The Respondents immediately took steps to discharge the latter figure and, by 8 June 2017, the whole of the VAT liability in respect of the relevant VAT period had been discharged.

11. On 5 July 2017, the Respondents issued a notice of penalty assessment to the Appellant under paragraph 2 of Schedule 24 in respect of the relevant VAT period in the amount of £26,948.25. In their letter to the Appellant of the following day, the Respondents explained that, in making their assessment, the Respondents had applied the maximum discount for a "prompted" disclosure and had therefore calculated the penalty at the reduced rate of 15% of the "potential lost revenue".

The relevant law

12. The provisions of Schedule 24 that are relevant in this case are as follows:

> (a) paragraph 2(1), which provides that a penalty is payable by a person where an assessment that is issued to that person understates that person's liability to a "relevant tax" and that person has failed to take reasonable steps to notify the Respondents of that fact within 30 days beginning with the date of the assessment that the assessment is an under-assessment;
>
> (b) paragraph 2(3), which defines a "relevant tax" as any tax that is mentioned in the table in paragraph 1 of Schedule 24 (of which VAT is one);
>
> (c) paragraph 4C, which provides that the penalty payable under paragraph 2 of Schedule 24 is 30% of the "potential lost revenue";
>
> (d) paragraph 5(1), which provides that, in the case of a failure to notify an under-assessment, the "potential lost revenue" is "the additional amount due or payable in respect of tax as a result of correcting the …assessment";
>
> (e) paragraph 5(2), which provides that the reference in paragraph 5(1) of Schedule 24 to "the additional amount due or payable" includes a reference to an amount payable to the Respondents having been erroneously paid by way of repayment of tax and an amount which would

have been repayable by the Respondents had the assessment not been corrected;

(f) paragraphs 9 and 10, which provide that the penalty under, inter alia, paragraph 2 of Schedule 24 can be reduced by disclosing a prior failure to disclose an under-assessment and that this reduction depends on whether or not the disclosure is "prompted" or "unprompted" and on the "quality" of the disclosure. The relevant paragraphs state that a disclosure is "unprompted" if made at a time when the person making the disclosure has no reason to believe that the Respondents have discovered or are about to discover the under-assessment and that a disclosure is "prompted" if that is not the case. They further state that the applicable percentage in relation to a "prompted" disclosure cannot be less than 15%;

(g) paragraph 11, which provides that the Respondents may reduce a penalty under paragraph 2 of Schedule 24 "if they think it right because of special circumstances";

(h) paragraph 15(2), which provides that a person may appeal against the amount of the penalty that is payable by that person;

(i) paragraph 17(2), which provides that, on any appeal under paragraph 15(2) of Schedule 24, the tribunal may affirm the Respondents' decision or substitute for the Respondents' decision another decision that the Respondents had the power to make;

(j) paragraph 17(3), which provides that, if, pursuant to paragraph 15(2) of Schedule 24, the tribunal substitutes its decision for the decision previously made by the Respondents, the tribunal may rely on paragraph 11 to the same extent as the Respondents or to a different extent, but only if the tribunal thinks that the Respondents' decision in respect of the application of paragraph 11 of Schedule 24 was "flawed"; and

(k) paragraph 17(6), which provides that the word "flawed" in the context of, inter alia, paragraph 17(3) of Schedule 24, means "flawed when considered in the light of the principles applicable in proceedings for judicial review". What this means is that the Respondents' decision cannot be said to be "flawed" merely because the tribunal, were it to consider the question de novo, would disagree with the Respondents' decision. Instead, the Respondents' decision can be said to be "flawed" only if the Respondents have acted unreasonably in the sense described in the leading case of *Associated Provincial Picture Houses, Limited v Wednesbury Corporation [1948] 1 K.B. 223* (*Wednesbury*"). In other words, the tribunal needs to consider whether, in reaching their conclusion, the Respondents have taken into account matters that they ought not to have taken into account or disregarded matters that they ought to have taken into account or if the Respondents have reached a decision that no reasonable person could have reached upon consideration of the relevant matters.

<u>Discussion</u>

13. Subject to some significant points in relation to quantum which we will go on to discuss below, the application of the above provisions in this case is straightforward. The Appellant has conceded that:

(a) when it received the assessment of 17 March 2017, it knew that that assessment was an under-assessment, albeit that it did not know at that time the extent of the under-assessment; and

(b) it did not take any steps to notify the Respondents that the assessment was an under-assessment until 25 May 2017, which was more than 30 days after the date of issue of the assessment and after the Respondents had written to the Appellant asking for further information in relation to the relevant VAT period.

14. This means that it is clear both that:

(a) the terms of paragraph 2 of Schedule 24 are satisfied and a penalty is properly due (unless the conclusion by the Respondents that there are no "special circumstances" which would justify the absence of a penalty altogether was "flawed" in the sense described above); and

(b) the disclosure of the under-assessment, when it was eventually made, was "prompted", in the sense described above, so that the minimum percentage to be applied in calculating the penalty is 15%.

15. The Appellant has explained the circumstances surrounding its delay in notifying the Respondents that the original assessment was an under-assessment. These were that its human resources were severely strained by the massive growth in its business over 2016, that it generally complies with its obligations under the tax legislation and that it took steps to pay its outstanding VAT liability promptly as soon as the precise extent of the shortfall in its VAT payments became clear. Moreover, it has pointed out that, as it ultimately met its VAT obligations, its situation is more akin to the one described in paragraph 8 of Schedule 24, which prescribes a different basis for calculating a penalty in the case of a "delayed tax".

16. We agree with the Appellant that a penalty of this magnitude for what is ultimately a fairly minor mistake does seem a little harsh. However, the regime in paragraph 8 of Schedule 24 is not applicable to penalties under paragraph 2 of Schedule 24 – it applies solely to penalties for inaccuracies in returns, which are the preserve of paragraph 1 of Schedule 24, and not paragraph 2 of Schedule 24. And it is not possible for us to conclude that the Respondents' failure to exercise their discretion under paragraph 11 of Schedule 24 to waive the penalty altogether because of "special circumstances" is unreasonable in the *Wednesbury* sense described above. We might or might not agree with that decision if we were to consider the question ourselves de novo but, as mentioned above, it is not open to us to embark on that course of action. We can disturb the Respondents' decision to impose a penalty for the Appellant's failure only if we consider that it was made unreasonably in the *Wednesbury* sense and we do not think that to be the case.

17. So, for the above reasons, we believe that we are bound to hold that the Appellant is liable to a penalty for failing to take reasonable steps to notify the Respondents within 30 days of the issue of the original assessment that the original assessment was an under-assessment. Moreover, as the disclosure made by the Appellant on 25 May 2017 was triggered by the Respondents' letter of 18 May 2017, we are bound to hold that the disclosure was "prompted" (as defined in paragraphs 9 and 10 of Schedule 24). The penalty has been calculated at the minimum percentage for a "prompted" disclosure – ie 15% rate – and therefore there is no basis for reducing that percentage.

18. However, we do have some reservations about the quantum of the amount to which that 15% rate has been applied in calculating the penalty. As noted above, that 15% rate is required to be applied to the "potential lost revenue".

19. The penalty which has been imposed on the Appellant does not take into account in any way the VAT payments which were made by the Appellant in respect of the relevant VAT period. Instead, the penalty has been calculated by reference to the difference between the amount shown in the VAT return when it was finally submitted on 7 June 2017 (and the original assessment was corrected) (£215,233.43) and the amount shown in the original assessment (£35,578.00). That difference is £179,655.43 and the penalty has been calculated by applying 15% to that amount, rounded down to the nearest whole pound.

20. However, as noted above, the Appellant had in fact paid a considerable amount in respect of its VAT liability for the relevant VAT period before it submitted its return. The total amount of VAT which it had paid by that time was £78,630.43 but, for the purposes of determining this appeal, we believe that it is necessary to break down this amount into two different categories, as set out in the paragraphs which follow.

21. £35,578.00 of the VAT which was paid in respect of the relevant VAT period before the return was submitted (the "Category 1 VAT") can be seen as discharging the original assessment which is the subject of this appeal.

22. But the Appellant also paid a further £43,052.43 of VAT in respect of the relevant VAT period before the return was submitted (the "Category 2 VAT"). The Category 2 VAT was paid in addition to the Category 1 VAT – ie the amount shown in the original assessment - and it was paid before the original assessment was corrected by the return that the Appellant submitted in respect of the relevant VAT period and, indeed, before the Appellant was prompted by the Respondents in respect of its failure to file that return.

23. The question which needs to be determined is whether the Respondents were correct in disregarding all of these VAT payments when they determined the amount to which the 15% rate would be applied in calculating the penalty.

24. We asked the Respondents about this at the hearing. Their response was that the penalty is required to be calculated by reference to the "potential lost revenue", as

defined in paragraph 5 of Schedule 24, and that, as that definition refers to "the additional amount due or payable in respect of tax as a result of correcting the …assessment", taxes actually paid, whether before or after the original assessment was issued, are completely irrelevant to the calculation. Instead, the Respondents said, the correct comparison in a case like this one is between the amount of the VAT liability which was shown in the original assessment and the amount of the VAT liability which was shown in the return when that was submitted and the original assessment was corrected. To test that proposition, we asked the Respondents to give us their view on what the penalty in this case would have been if, prior to the date when the return was submitted and the original assessment was corrected, the Appellant had paid the full £215,233.43 that was shown in the return instead of just £78,630.43. Their response was that this would have made no difference to the quantum of the penalty – the amount paid was irrelevant and the "potential lost revenue" (as defined in paragraph 5 of Schedule 24) would be unaffected by that.

25. We consider that the Respondents were quite correct to disregard the Category 1 VAT when they calculated the "potential lost revenue" to which the 15% rate was applied. It follows from the fact that the definition of "potential lost revenue" in paragraph 5 of Schedule 24 is seeking to identify the additional amount of tax to which the correction of the relevant original erroneous assessment gives rise that the amount paid by way of discharging that original erroneous assessment must be irrelevant in applying that definition. So it must follow that a payment by way of discharging the original under-assessment cannot be a relevant factor in determining the "potential lost revenue".

26. It is much more difficult to reach a conclusion in relation to the Category 2 VAT – ie the additional £43,052.43 that was paid by the Appellant in respect of the relevant VAT period in addition to the amount that was shown in the original assessment.

27. Before considering whether, as a matter of the technical application of the law, the Respondents were correct in disregarding the Category 2 VAT when they determined the amount to which the 15% rate should be applied, we have considered what we think the appropriate answer should be taking into account the policy underlying this regime. In that regard, we would have thought that the mere fact that the relevant taxpayer has paid an amount of tax which exceeds the amount shown in the original assessment before the original assessment is corrected ought not to be a relevant factor in determining the penalty under paragraph 2 of Schedule 24. We say this because we think that a taxpayer should not be able to avoid paying a penalty calculated by reference to the difference between the amount shown in an original assessment and the true liability once that original assessment has been corrected by the simple exigency of paying an amount equal to that difference before the original assessment has been corrected. There are various reasons for reaching this conclusion. First, in many cases, the taxpayer will have paid the additional tax only because it has realised that the Respondents are already aware of, or are likely to become aware of, the fact that the original assessment was an under-assessment and, in such a case, making the payment should not enable the taxpayer to avoid the consequences of its failure to notify the Respondents of the under-assessment on time

in the first place. Secondly, in many such cases although, admittedly, not in this case, the fact that the taxpayer has not notified the Respondents within the 30 day time limit that the original assessment is an under-assessment means that the taxpayer will have been able to defer payment of its additional liability beyond the date when it would been obliged to discharge that additional liability had it notified the Respondents on time, with the result that the taxpayer thereby obtains a cash flow advantage. Providing for the penalty to be reduced by reference to tax payments in excess of the amount shown in the original under-assessment made in the period before the original under-assessment has been corrected would weaken considerably the deterrent effect of the regime. And, thirdly, the legislation makes it perfectly clear that a taxpayer can escape a penalty under the regime by taking reasonable steps to notify the Respondents within the 30 day time limit that the relevant assessment is an under-assessment. That is not a very onerous obligation and there is no reason why a taxpayer's failure to take such a simple step should be capable of being cured by making an additional tax payment instead.

28. Turning then to the technical position, we have considered three possible bases for concluding that the amount to which the 15% rate should be applied in calculating the penalty in this case should be reduced by the Category 2 VAT. Those are as follows:

(a) First, we have considered whether, when the definition of "potential lost revenue" refers to "the additional amount due or payable in respect of tax as a result of correcting the …assessment", it should be construed as requiring tax in excess of the amount shown in the original under-assessment that has already been paid by the time that the assessment was corrected to be excluded in calculating that additional amount. This would be on the basis that such tax does not become "due or payable" as a result of correcting the assessment because, as an amount already paid by that time, it does not (and cannot) thereby become "due or payable";

(b) Secondly, we have considered whether, in failing to treat, as a "special circumstance", the fact that the Appellant had paid the Category 2 VAT before the assessment was corrected and thus failing to reduce the amount to which the 15% penalty rate was applied by that amount, the Respondents made a "flawed" decision under paragraph 11 of Schedule 24 in the sense set out in paragraph 17(6) of Schedule 24; and

(c) Finally, we have considered whether the Respondents' failure to exclude the Category 2 VAT from the "potential lost revenue" arising in respect of the original assessment means that the penalty is not proportionate, as is required by European Union law and the terms of Article 1 of the First Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms – see, amongst other cases, the European Court of Justice decision in *Paraskevas Louloudakis v Elliniko Dimosia* (Case C-262/91) [2001] ECR I-5547 ("*Louloudakis*"), the Court of Appeal decision in *International Transport Roth GmbH v Secretary of State for the Home Dept* [2003] QB 728 ("*Roth*") and the Upper Tribunal decisions in *The*

Commissioners for HMRC v Total Technology (Engineering) Limited [2012] UKUT 418 TCC, [2013] STC 681 ("*Total Technology*") and *The Commissioners for HMRC v Trinity Mirror plc* [2015] UKUT 0421 (TCC) ("*Trinity Mirror*"). In that regard, even if, as a general rule, a failure to exclude tax payments made before the original assessment is corrected from the "potential lost revenue" arising in respect of the original assessment does not render the penalty regime under paragraph 2 of Schedule 24 as a whole disproportionate, that failure might still be operating in a disproportionate manner in the case of this particular taxpayer.

29. In relation to the first point mentioned above, there is something to be said for the proposition that an amount that has already been paid at the time when the original assessment is corrected does not, and cannot, thereby become "due or payable". Moreover, that interpretation does gain some support when one considers the terms of paragraph 5(2)(a) of Schedule 24. That paragraph provides that the reference to "the additional amount due or payable includes a reference to…an amount payable to HMRC having been erroneously paid by way of repayment of tax". By referring to a repayment of tax in this context, the legislation appears to be suggesting, by implication, that the determination of the "potential lost revenue" is not just about calculating the increase in liability that stems from correcting the original assessment but also requires some consideration of the taxes that have actually been paid before the original assessment is corrected.

30. On the other hand, the words "the additional amount due or payable in respect of tax as a result of correcting the …assessment" can also be construed as simply requiring a comparison of the <u>liability</u> that was shown in the original assessment and the <u>liability</u> that would have been shown in the original assessment had the original assessment been made on the correct basis. In that case, taxes actually paid before the correction is made would be irrelevant.

31. Taking into account the policy of the regime, we think that the second construction set out above is to be preferred. Apart from anything else, to construe the definition as requiring taxes already paid by the time that the original under-assessment is corrected to be deducted in determining the amount which becomes "due or payable" by virtue of the corrected assessment would enable a taxpayer to wait and see whether the Respondents identify that the original assessment is potentially an under-assessment, to pay the amount of the under-assessment just before the original assessment is corrected and then to argue that the "potential lost revenue" is nil.

32. So we think that the Respondents are correct in interpreting the definition of "potential lost revenue" as requiring the identification of the amount by which the liability shown in the original assessment would have been greater had the original assessment been made on the correct basis and without regard to whether any of that difference has already been paid by the time that the original assessment was corrected.

33. In relation to the second point mentioned above, we have already noted that there is a high bar to be surmounted before concluding that a decision made by the Respondents in relation to whether or not there are "special circumstances" was "flawed", within the meaning of paragraph 17(6) of Schedule 24. Even if we might have reached a different conclusion ourselves had we considered the position de novo, we do not think that the Respondents' failure to take into account the payment of the Category 2 VAT as a "special circumstance" when they calculated the amount to which the 15% rate was applied can properly be said to be unreasonable in the sense described in *Wednesbury*. The Respondents could reasonably point to the factors which we mention in paragraph 27 above as justifying their failure to have any regard to the Category 2 VAT. So we do not think that the Respondents' failure to exercise their discretion under paragraph 11 of Schedule 24 to reduce the penalty by reference to the Category 2 VAT on the basis that the payment of the Category 2 VAT was a "special circumstance" can be said to be "flawed" within the meaning of paragraph 17(6) of Schedule 24. We therefore do not have the power to disturb that conclusion.

34. Finally, in relation to the third point mentioned above, the principles which we derive from the decisions in *Louloudakis*, *Roth*, *Total Technology* and *Trinity Mirror* are as follows:-

(a) A wide discretion is conferred on the Government and Parliament in devising a suitable scheme for penalties and therefore a high degree of deference is due by courts and tribunals when determining the legality of penalties. The state has a wide margin of appreciation and a court or tribunal must be astute not to substitute its own view of what is fair for the penalty which Parliament has imposed;

(b) This penalty could be disproportionate either if the regime in Schedule 24 in relation to under-assessments as a whole is disproportionate or if the way in which that regime applies to this taxpayer operates in a disproportionate manner;

(c) In respect of a penalty, the principle of proportionality is concerned with two objectives - the objective of the penalty itself and the underlying aims of the relevant legislation. Of the two objectives, the latter is the more fundamental because it is not enough for a penalty simply to be found to be disproportionate to the gravity of the default. Instead, it must be "so disproportionate to the gravity of the infringement that it becomes an obstacle to [the underlying aims of the relevant legislation]" (*Louloudakis* at [70]);

(d) The underlying aim of the relevant legislation in this case is that tax should be accounted for and paid on a timely basis;

(e) The correct approach is to determine whether the penalty goes beyond what is strictly necessary for the objective pursued by the regime and whether the penalty is so disproportionate to the gravity of the infringement that it becomes an obstacle to the achievement of the underlying aim of the relevant legislation; and

(f) To those tests should be added the question derived from *Roth* at [26], which is "is the scheme not merely harsh but plainly unfair, so that, however effectively that unfairness may assist in achieving the social goal, it simply cannot be permitted?".

35. Applying the above principles in the present case, we have reached the conclusion that, essentially for the same reasons as are set out in paragraph 27 above, the fact that the regime in paragraph 2 of Schedule 24 does not take into account, in determining the amount of the applicable penalty, tax payments in excess of the amount shown in the original assessment that are made before the date when that original assessment is corrected does not make the regime as a whole disproportionate or mean that the regime is applying to the Appellant in a disproportionate manner. In other words, whilst it may be operating harshly on this particular taxpayer in these circumstances, it cannot be said to be so unfair either generally to taxpayers who become subject to this regime or to this particular taxpayer in these circumstances that it simply cannot be permitted or is "so disproportionate to the gravity of the infringement that it becomes an obstacle to [the underlying aims of the relevant legislation]".

36. The aim of this legislation is to ensure that the Respondents are informed as soon as practicable when an assessment is an under-assessment in order to enable the correct amount of tax to be paid as soon as possible. That is a legitimate aim. And imposing a penalty that is a specified percentage of the tax that would have been payable if the original assessment had been corrected in time seems to us to be a proportionate means of achieving that aim. In addition, the regime makes provision for the penalty to be reduced to take account of special circumstances. Finally, although the regime takes no account of tax which has been paid before the assessment is corrected, there are sound policy reasons why the regime does not do so, as outlined in paragraph 27 above.

37. The above analysis means that we think that the Respondents were entitled to disregard the payment of the Category 2 VAT when they calculated the “potential lost revenue” that arose when the original assessment that is the subject of this appeal was corrected.

38. We reach this conclusion with some reluctance as, on the facts of this case, the Appellant appears to have been somewhat harshly treated. It might reasonably be said that the fair result would have been for the penalty to have been reduced by £6,457.86 – ie 15% of the amount of the Category 2 VAT of £43,052.43. However, for the reasons set out above, we do not think that any of the arguments which we have considered in that regard are sufficient to give rise to that result, given the policy of the regime, the terms of the various statutory provisions and the limitations on the doctrine of proportionality.

39. Subject to our comment in relation to the correct figures at paragraph 2 above, we therefore uphold the penalty of £26,948.25 that was imposed on the Appellant under paragraph 2 of Schedule 24.

40. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to "Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)" which accompanies and forms part of this decision notice.

TONY BEARE
TRIBUNAL JUDGE

RELEASE DATE: 20 APRIL 2018