



TC07673

VAT – input tax

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

Appeal number: TC/2018/08143

BETWEEN

AITMATOV ACADEMY

Appellant

-and-

**THE COMMISSIONERS FOR
HER MAJESTY’S REVENUE AND CUSTOMS**

Respondents

**TRIBUNAL: JUDGE SARAH ALLATT
MS HELEN MYERSCOUGH**

Sitting in public at Taylor House on 21 January 2019

Dr R Abduvalieva for the Appellant

**Mr B Williams, litigator of HM Revenue and Customs’ Solicitor’s Office, for the
Respondents**

DECISION

THE APPEAL

1. The Appeal concerns a decision to disallow input tax of £1,299.22 on the 03/18 VAT return.
2. The VAT was incurred in relation to an awards ceremony arranged by the Appellant.

BACKGROUND

3. The business activities of the Appellant as described on the VAT 1 application form are those of translating, interpreting, publishing, events (reading, book presentations) and award ceremonies.
4. The Appellant applied for VAT registration in January 2018 and was registered with effect its date of incorporation, 19 April 2017, under VAT registration number 285 7264 65. There had been two previous registrations for VAT under this business name.
5. The appeal concerns an event (Chingiz Aitmatov Award Ceremony) that was arranged by the Appellant and held at the House of Lords,
6. Sponsoring member was Lord Wrigglesworth, the event organiser as shown on the House of Lords event form was Dr Rahmia Abduvalieva. Aitmatov Academy was shown as an organisation associated with the event alongside St Bride Foundation.
7. Guests were not charged for attending the event at the House of Lords as this was a condition of the sponsor.
8. The Kazakh National Company Samruk-Kazyna was a sponsor for all international Chingiz Aitmatov Awards since 2012 in the UK.

DISCUSSION

9. We would like to record our thanks to Mr Williams, who presented the case for HMRC very clearly and in a very fair and balanced manner. We would also like to record our thanks to Dr Abduvalieva who enabled us to get a good understanding of the event and the work she is doing to promote Kazakh literature across the world.
10. Dr Abduvalieva brought this appeal in part because input VAT had been allowed on a very similar event in 2015 and she could not see the difference that caused input VAT in this case to be disallowed.
11. The Tribunal explained that its role is to apply the law in this specific instance and as such it cannot look at what happened in an early case which is not the subject of an appeal.
12. HMRC gave 3 reasons that the VAT should be disallowed.
13. Firstly, they contend that the expenses were not incurred by Aitmatov Academy but by Dr Abduvalieva. Dr Abduvalieva is not VAT registered.
14. Secondly, if they were incurred by the Academy they were not directly attributed to a taxable supply.
15. Thirdly, if they were directly attributed to a taxable supply they were business entertaining, on which VAT is not allowed to be recovered.
16. We were shown various pieces of evidence and heard from Dr Abduvalieva. The uncontested evidence is as follows:

17. The event at the House of Lords was a cultural event and the attendees were drawn from organisations such as universities and libraries. A number of individuals personally interested in this as a cultural event were also invited.
18. The event was funded by Samruk-Kazyna and Aitmatov Academy.
19. No attendee was charged to attend.
20. The attendees were not potential customers, directly, of Aitmatov Academy. It is possible that further work may have come to the Academy through the institutions of some of the attendees, but it was clear the overall purpose of the event was cultural and not advertising.
21. There was not agreement on the question of whether the payment for the event came from Aitmatov Academy or Dr Abduvalieva.
22. There was also not agreement on the ‘entertainment’ nature of the event. Dr Abduvalieva maintained that entertaining is not allowed at the House of Lords and this was a cultural event. HMRC say that notwithstanding whether the House of Lords would determine this to be entertaining, it would fall within the definition of entertainment for VAT purposes.
23. In relation to the payment (and incurring of the expense) for the event, we were shown a number of pieces of evidence including invoices addressed to Dr Abduvalieva, the Contract for the event at the House of Lords on which Aitmatov Academy was given as the ‘Organisation’ and Dr Abduvalieva as the Event Organiser. We were also shown bank statements for payments for prior events from an account which appeared to be the personal account of Dr Abdulvalieva.
24. We do not find evidence on either side conclusive. Having also heard from Dr Abdulvalieva we are satisfied that the cost did come from Aitmatov Academy and she did not incur the cost personally.
25. We therefore turn to the question of deductibility.
26. VAT Act 1994 Section 26 states:
 - 26(1) The amount of input tax for which a taxable person is entitled to credit at the end of any period shall be so much of the input tax for the period (That is input tax on supplies, acquisitions and importations in the period) as is allowable by or under regulations as being attributable to supplies within subsection (2) below
 - 26(2) The supplies within this subsection are the following supplies made or to be made by the taxable person in the course or furtherance of his business-
 - (a) Taxable supplies;
 - (b) Supplies outside the United Kingdom....
 - (c) Such other supplies outside the United Kingdom...
27. We therefore need to decide whether the awards ceremony was ‘in the furtherance of ...business’.
28. The taxable supplies made by the Academy were (or are intended to be) translation and interpreting work, and publishing interpreted works. The evidence of Dr Abduvalieva was that there was no overlap between the guests at the awards ceremony and customers or intended customers of the Academy.
29. We find quite clearly that the awards ceremony was not directly or indirectly linked to the taxable supplies made or intended to be made by the company, and therefore that the input tax related to the ceremony should not be allowed.
30. We therefore do not need to address the question of business entertaining.

31. We do not consider that any earlier action by HMRC in relation to the processing of a VAT return that had a similar claim in it, albeit by another company, binds HMRC in any way or gives rise to any legitimate expectation by Aitmatov Academy.

32. We understand the frustration that Dr Abduvalieva has in relation to what she sees as two contradictory decisions by HMRC. However, by her own admission, she left the VAT returns to her accountants and she was not familiar with what was and was not an allowable deduction for VAT purposes.

THE DECISION

33. For the reasons given above, this appeal is dismissed.

RIGHT TO APPLY FOR PERMISSION TO APPEAL

34. 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.

**SARAH ALLATT
TRIBUNAL JUDGE**

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