TC02968

Appeal number: TC/2010/02193

VALUE ADDED TAX – "Fleming Claim" by company who became the representative member after the original group member had received the input supply – recipient not a member of the group at time of input supply - whether representative member could sustain the claim - On facts – No – Appeal dismissed

FIRST-TIER TRIBUNAL
TAX CHAMBER

CHUBB LIMITED **Appellant**

- and -

THE COMMISSIONERS FOR HER MAJESTY'S REVENUE & CUSTOMS **Respondents**

TRIBUNAL: JUDGE ADRIAN SHIPWRIGHT
SUSAN LOUSADA

Sitting in public at Bedford Square on 8, 9 and 10 May 2013

Geoff Tack, Solicitor, DLA Piper for the Appellant

Andrew McNabb, Counsel, instructed by the General Counsel and Solicitor to HM Revenue and Customs, for the Respondents

DECISION

Introduction

1. This decision concerns an appeal by Chubb Limited ("Chubb"), as the representative member of the Chubb VAT Group against the decision of the Respondent ("HMRC") not to pay £334,572 to Chubb. Chubb had made a claim for this amount to be paid under sections 24 and 25 VATA and regulation 29 of the VAT Regulations on 30 March, 2009.

2. The decision was notified to Chubb by letter dated 27 October, 2009.

3. This decision was upheld on review and notified by letter dated 27 January 2010.

4. Chubb claimed the payment on the basis that input tax attributable to a share issue in 1987 by a company called Y&V Limited ("Y&V") which went into members' voluntary liquidation in 2005 had been under recovered and Y&V had been a member of the Chubb VAT Group though not at the time of the financing.

The Issue

5. The essential issue in this case is whether HMRC's decision was correct or not.

6. This raises a number of questions, assuming the overpayment and its amount are established by the Taxpayer, including the following:

(a) Had the right to recover input tax been assigned to the Taxpayer?

(b) Was Y&V a member of the Group at the time of supply?

(c) Does the Taxpayer have some sort of unjust enrichment claim which we could entertain?

Abbreviations and Dramatis Personae

7. The following abbreviations and references to persons are used in this decision but as ever are subject to the requirements of the context.

"the Appellant"	Chubb Limited
"Chubb"	the Appellant
"Chubb UK"	Chubb (UK) Ltd the sole shareholder of Y&V
"HMRC"	the Respondent
"LPA"	Law of Property Act 1925
"Nu Tone"	Nu Tone Inc. one of the target companies for which the finance was raised
"the Respondent"`	HMRC
"the Taxpayer"	Chubb or the Appellant

"VAT" Value Added Tax

"VATA" Value Added Tax Act 1994

"Williams" Williams Holdings plc, also known as Williams plc, Williams Limited and Chubb Group Limited, the sole shareholder of Chubb UK. The sole shareholder of Williams was the Taxpayer

"Yale" Yale Securities Inc. one of the target companies for which the finance was raised

"Y&V" Y&V Limited

8. It should be noted that there have been many changes of name of the companies involved. It is important to be clear which company is involved at which stage.

The Law

Statute

9. The law in this area is mainly found in sections 24 and 25 VATA and Regulation 29 VAT Regulations.

10. Section 25 VATA provides (so far as material):

"(1) A taxable person shall—

(a) in respect of supplies made by him, … account for and pay VAT by reference to such periods (in this Act referred to as "prescribed accounting periods") at such time and in such manner as may be determined by or under regulations and regulations may make different provision for different circumstances.

(2) Subject to the provisions of this section, he is entitled at the end of each prescribed accounting period to credit for so much of his input tax as is allowable under section 26, and then to deduct that amount from any output tax that is due from him.

(3) If either no output tax is due at the end of the period, or the amount of the credit exceeds that of the output tax then […] the amount of the credit or, as the case may be, the amount of the excess shall be paid to the taxable person by the Commissioners; and an amount which is due under this subsection is referred to in this Act as a "VAT credit". […]

(6) A deduction under subsection (2) above and payment of a VAT credit shall not be made or paid except on a claim made in such manner and at such time as may be determined by or under regulations; and, in the case of a person who has made no taxable supplies in the period concerned or any previous period, payment of a VAT credit shall be made subject to such conditions (if any) as the Commissioners think fit to impose, including conditions as to repayment in specified circumstances".

11. Prior to 1 April 2009, Regulation 29 ("Claims for input tax") provided (as far as material):

"(1) Subject to paragraphs (1A) and (2) below, and save as the Commissioners may otherwise allow or direct either generally or specially, a person claiming deduction of input tax under section 25(2) of the Act shall do so on a return made by him for the prescribed accounting period in which the VAT became chargeable.

(1A) The Commissioners shall not allow or direct a person to make any claim for deduction of input tax in terms such that the deduction would fall to be claimed more than 3 years after the date by which the return for the prescribed accounting period in which the VAT became chargeable".

12. Section 121 FA 2008 provides:

"(2) The requirement in section 25(6) of VATA 1994 that a claim for deduction of input tax be made at such time as may be determined by or under regulations does not apply to a claim for deduction of input tax that became chargeable, and in respect of which the claimant held the required evidence, in a prescribed accounting period ending before 1 May 1997 if the claim is made before 1 April 2009". The claim here was made on 30 March 2009. It was not argued that it was out of time.

13. Section 43(1) VATA 1994 (and its predecessor, section 29 VATA 1983) has been amended many times. The relevant provisions here have essentially remained unchanged.

14. Section 43(1) provides that "Where bodies corporate are treated as members of a VAT group, any business carried on by a member of the group is treated (for VAT purposes) as carried on by the representative member, and –

(a) any supply of goods or services by a member of the group to another member of the group is disregarded;

(b) any other supply of goods or services by or to a member of the group shall be treated as a supply by or to the representative member;

and all members of the group shall be liable jointly and severally for any VAT due from the representative member".

15. Section 29 Value Added Tax Act 1983 was headed "Groups of companies". It provided:

"(1) Where, under the following provisions of this section, any bodies corporate are treated as members of a group any business carried on by a member of the group shall be treated as carried on by the representative member, and—

(a) any supply of goods or services by a member of the group to another member of the group shall be disregarded; and

(b) any other supply of goods or services by or to a member of the group shall be treated as a supply by or to the representative member; and

(c) any tax paid or payable by a member of the group on the importation of any goods shall be treated as paid or payable by the representative member and the goods shall be treated for the purposes of section 25 above and paragraph 4(6) of Schedule 7 to this Act as imported by the representative member;

and all members of the group shall be liable jointly and severally for any tax due from the representative member.

(2) An order under section 3(5) or (6) above may make provision for securing that any goods or services which, if all the members of the group were one person, would fall to be treated under that section as supplied to and by that person, are treated as supplied to and by the representative member.

(3) Two or more bodies corporate resident in the United Kingdom are eligible to be treated as members of a group if—

(a) one of them controls each of the others; or

(b) one person (whether a body corporate or an individual) controls all of them; or

(c) two or more individuals carrying on a business in partnership control all of them.

(4) Where an application to that effect is made to the Commissioners with respect to two or more bodies corporate eligible to be treated as members of a group, then, from the beginning of a prescribed accounting period they shall be so treated, and one of them shall be the representative member, unless the Commissioners refuse the application; but they shall not refuse it unless it appears to them necessary to do so for the protection of the revenue.

(5) Where any bodies corporate are treated as members of a group and an application to that effect is made to the Commissioners, then, from the beginning of a prescribed accounting period—

(a) a further body eligible to be so treated shall be included among the bodies so treated; or

(b) a body corporate shall be excluded from the bodies so treated; or

(c) another member of the group shall be substituted as the representative member; or

(d) the bodies corporate shall no longer be treated as members of a group,

unless the application is to the effect mentioned in paragraph (a) or paragraph (c) above and the Commissioners refuse the application; but they shall not refuse it unless it appears to them necessary to do so for the protection of the revenue.

(6)Where a body corporate is treated as a member of a group as being controlled by any person and it appears to the Commissioners that it has ceased to be so controlled, they shall, by notice given to that person, terminate that treatment from such date as may be specified in the notice.

(7) An application under this section with respect to any bodies corporate must be made by one of those bodies or by the person controlling them and must be made not less than 90 days before the date from which it is to take effect, or at such later time as the Commissioners may allow.

(8) For the purposes of this section a body corporate shall be taken to control another body corporate if it is empowered by statute to control that body's activities or if it is that body's

holding company within the meaning of the Companies Act 1948; and an individual or individuals shall be taken to control a body corporate if he or they, were he or they a company, would be that body's holding company within the meaning of that Act".

16. Section 1012 of the Companies Act 2006 (formerly section 654 of the Companies Act 1985) provides as follows:

"(1) When a company is dissolved, all property and rights whatsoever vested in or held on trust for the company immediately before its dissolution (including leasehold property, but not including property held by the company on trust for another person) are deemed to be bona vacantia and–

(a) accordingly belong to the Crown …, and

(b) vest and may be dealt with in the same manner as other bona vacantia accruing to the Crown …

(2) Subsection (1) has effect subject to the possible restoration of the company to the register under Chapter 3 (see section 1034)".

Evidence

17. There was one volume of agreed documents produced. None of the documents was objected to and they were all admitted in evidence.

18. We heard no oral evidence.

19. During the hearing it became clear that a letter from the Liquidators of Y&V dated 10 July 2006 could be significant. It was not available at the hearing. A copy was later supplied to us which we have considered in reaching our decision. HMRC did not object to our doing so.

Findings of Fact

20. From the evidence we make the following findings of fact.

The transaction giving rise to the amount claimed as input tax.

21. On 30 June 1987 Y&V (then called Valor plc.) issued shares for the purpose of raising finance. The reason for raising the finance was so that Y&V could acquire Yale Securities Inc. and Nu Tone Inc.

22. It was not disputed that Y&V successfully acquired Yale and Nu Tone using the finance.

23. At the time the money was raised such a share issue was considered an exempt supply with consequent restrictions on input tax deduction.

Y&V

24. Y&V was incorporated in 1936.

25. Y&V changed its name several times in the course of its existence. This can make it difficult to track. It is referred to here as Y&V (unless the context otherwise requires).

26. Before 1992 Y&V was registered for VAT in its own name. At any rate it was not part of the Chubb VAT Group before then.

27. The Chubb VAT Group was registered on 1 July 1987.Y & V joined the Chubb VAT Group on 1 January 1992 . It ceased to be a member on 18 July 2005.

28. There were various owners of Y&V till Williams became the owner of all the issued share capital of Y&V.

29. Y & V was acquired by Williams Holdings plc ("Williams") in 1991.

30. Y&V was put into members' voluntary liquidation on 18 July 2005.

31. On 10 July 2006 the liquidators of Y&V recorded that they have declared and paid a first and final distribution to Chubb (UK) Ltd), the sole shareholder in Y & V, valued at £484,865,675. That represented "the liquidators' understanding of the full value of the assets of Y & V Ltd". However, although there was an assignment of book debts there was no assignment of the VAT claim by the liquidators.

32. On 7 August 2006 it was recorded that "[Y&V Ltd] is deemed to be dissolved on the expiration of 3 months from the registration date shown below, in accordance with section 201(2) or section 202(5) of the Insolvency Act 1986"

33. The registration date "shown below" was 7 August 2006.

34. Accordingly, Y&V was dissolved or rather deemed to be dissolved on 7 November 2006. After that date Y&V could not be restored to the Register. It has not been sought to restore Y&V to the Register. This was agreed between the parties.

35. The two year time limit for any declaration that the dissolution of Y&V was invalid under Companies Act 1985, s.651 expired on 7 November 2008. The Parties accepted that Y&V cannot now be restored to the Register and that it had not been restored prior to that date nor sought to restore Y&V to the Register.

Chubb Limited

36. On 6 May 2004 Chubb was renamed Chubb Limited.

Chubb

37. Chubb was incorporated on 17 July 2000.

38. Chubb acquired Williams in 2000 and became the ultimate owner of Y & V Ltd.

39. By 9 May 2006 Chubb had become the representative member of the Chubb VAT Group. Chubb joined the Chubb VAT Group on 9 November 2000.

40. In 2003 Chubb was acquired by United Technologies Corporation.

Chubb UK

41. Chubb (UK)) was put into Members Voluntary Liquidation by its sole shareholder, Chubb Group Ltd (aka Williams), on 13 October 2009.

42. Chubb (UK) Ltd was dissolved on 22 February 2011 according to Companies House

Williams aka Chubb Group

43. Williams Ltd was renamed "Chubb Group Ltd" on 28 February 2001.

44. Williams changed its name and to Chubb Group Limited on 28 February 2001.

45. Williams had acquired Chubb Securities in 1997.

46. Chubb was acquired by United Technologies Corporation in 2003.

47. *Fleming Claims*

48. As is well known there were various court decisions which allowed VAT to be recovered going back a considerable time. These were the subject of various Customs Briefs and press releases.

49. The ECJ decided in a case called *Kretztechnik* that input tax in respect of shares was recoverable in some circumstances. It had been thought before that this was not the case.

50. Various business briefs were issued concerning HMRC's views of *Fleming* and *Kretztechnik.*

51. Section 121 FA 2008 (set out above) introduced a time limit for *Fleming* claims.

52. *The Claim*

53. Chubb made a claim on 13 March 2009 for credit for input tax in respect of the costs of the share issue in June 1987 by Y&V. Y&V had been liquidated before that date.

54. There was thus a lapse of more than 20 years between incurring the VAT and a claim being made in respect of it as input tax by a company which had become the representative member of a VAT Group set up in 1987 but which Y&V did not join till 1991 and after Y&V had been liquidated.

55. Following Case C-465/03 *Kretztechnik AG v Finanzamt Linz* [2005] STC 1118, HMRC accepted that certain share issues were outside the scope of VAT and that the VAT incurred on associated costs was recoverable to the extent that they were used for the purpose of the company's taxable transactions.

56. Y & V did not, however, make a claim for under-claimed input tax in 2005, because (it is said) of the 3 year cap (Regulation 29(1A)) in force at the time.

57. HMRC rejected Chubb's claim for the recovery of the input tax. This was because:

(a) Any right to deduct VAT, and any right to a VAT credit, properly belonged to Y & V, not Chubb;

(b) There has been no (valid) assignment of any such right to Chubb;

(c) Chubb has failed to provide sufficient evidence to support the claim.

58. There was no evidence before us as "to the overpayment of VAT either generally or as to its amount" as HMRC argued. We find that this is the case as a matter of fact i.e. the Taxpayer has not established that there was an overpayment of VAT and if there had been (which has not been shown) the Taxpayer has not established the amount of such alleged overpayment. The onus is on the Taxpayer to establish this and we find that on the balance of probabilities on the evidence before us the Taxpayer has not established the overpayment nor the amount of any alleged overpayment. We consider that on its own this is sufficient to dispose of the appeal.

59. *VAT Group*

60. The Chubb VAT Group) was registered on 1 July 1987.

61. Y&V became a member of the Chubb VAT Group on 1 January 1991 and ceased to be a member on 18 July 2005.

Letter from the Liquidators of Y&V of 10 July 2006

62. The Joint Liquidator confirmed the distribution in specie of the book debt due from Chubb Group (International) Limited to Y&V. This was expressed to be a first and final distribution. Notice was given of this assignment to the debtor so the requirements of section 136 LPA were fulfilled. There was no mention of the assignment of any VAT claims.

63. There were no other documents relating to this produced to us.

64. There was no evidence before us from which we could infer that the documents did not reflect the intention at the time and we so find.

65. *Assignment from Chubb UK to Chubb*

66. There was no evidence of any assignment further up the chain before us.

67. It was suggested that there was an intention to assign everything each time. This was not what the documents in front of us showed. There was no evidence before us to allow us to draw such inference as would assist the Taxpayer and we draw no such inference. This was particularly true in respect of the rights to which the claim relates which is hardly surprising as they were not known to exist at the relevant time(s).

68. We find as a fact that there was no assignment of the rights to which the claim relates. This because there was no evidence before us to show that that was the case or which would allow us to draw such an inference.

Submissions of the Parties

Appellant's submissions in outline

69. In essence, the Taxpayer's argument was relatively simple. Chubb as the representative member of the VAT Group of which Y&V had been a member should recover the input tax VAT which Y&V had incurred now that it was clear it was deductible otherwise HMRC would be holding money to which it was not entitled.

70. HMRC has refused to give credit for the input tax claimed and so in effect as held on to money that it should not have.

71. In more detail it was argued on behalf of the Taxpayer as follows.

(a) HMRC can disgorge this money through the mechanism of section 43VATA.

(b) Chubb as the Representative member is entitled to make the claim. The group member's claims are vested in the Representative Member.

(c) HMRC's stance in rejecting the claim is contrary to the principle established in *San Giorgio* that a Member State cannot render the exercise of community rights practically impossible.

(d) Chubb has standing to bring the claim now that it is accepted that such claims can be assigned. It was assigned here up to Chubb expressly or implicitly.

(e) Even if HMRC do not accept that there was factually an assignment section 43 VATA requires HMRC to treat Chubb as the representative member as entitled to make the claim in that capacity. HMRC should not exclude the claim from the Group because Y&V was subsequently dissolved.

(f) HMRC must abide by the principle of effectiveness.

(g) The bona vacantia rules are a means of preserving assets for the taxpayer not putting them in the hands of the Crown. It a means of allowing recovery for repayment of under claimed input tax.

72. Accordingly, the appeal must be allowed.

73. ***HMRC`s submissions in outline***

General

74. In essence HMRC argued that the appeal fails on both fact and law.

(a) The Appellant had not received the right to recover by assignment on the evidence before the Tribunal;

(b) Y&V was not a member of the VAT Group at the time the supplies were received so the grouping provisions did not apply as a matter of law.

75. The appeal fails on fact as the Appellant has not discharged the necessary onus of proof even on the balance of probabilities of its claim and the elements of its claim.

76. In particular, the Appellant has not proved as a matter of fact:

(a) The overpayment of VAT either generally or as to its amount;

(b) The assignment from Y&V to Chubb UK;

(c) The assignment from Chubb UK to Chubb.

(d) It should also be noted that there was no oral evidence and no probative evidence to support the claim.

77. The claim does not fall within section 43.

(a) Section 43 does not transfer the right from Y&V to Chubb;

(b) Section 43 only applies when and where bodies corporate are treated as members of the same group;

(c) Section 43 on its wording concerns the VAT treatment of supplies within and to and from the group;

(d) Section 43 does not apply to claims which arose before the body corporate became a member of the group. That remains the company's and is not transferred to the Representative Member.

78. The principle of effectiveness is not in point here.

79. Accordingly, the appeal should be dismissed.

Discussion

Introduction

80. We set out at the start of this Decision our view of the issue and some questions relevant to deciding the case.

81. We consider this raises a number of questions including the following:

(a) Had the right to recover input tax been assigned to the Taxpayer?

(b) Was Y&V a member of the Group at the time of supply?

(c) Does the Taxpayer have some sort of unjust enrichment claim which we could entertain?

82. Strictly, these only arise if the Taxpayer establishes the overpayment and its amount. We have found that on the balance of probabilities it has not which would dispose of the case. However, for the sake of completeness and in case it is sought to take the matter further we feel we should deal with these questions.

Had the right to recover input tax been assigned to the Taxpayer?

83. To assign a chose or thing in action at law the conditions in section 136 LPA need to be fulfilled. This requires, amongst other things, writing and notice to be given.

84. This was not shown to be the case here on the balance of probabilities.

85. An assignment of a chose in action can take place in equity and if it is not of land or an equitable right does not necessarily require writing (see sections 52 and 53 LPA) but does need to be proved by evidence. Such an assignment may be assignment not meeting all the section 136 criteria or by conduct (e.g. directing the debtor to pay the assignee). Either way a manifest intention to make an assignment needs to be shown. The onus is on the Taxpayer to show this. The Taxpayer has failed to discharge this onus.

86. As there was no evidence before us to show such a manifest intention and nothing in the surrounding circumstances from which to infer such an intention we find on the balance of probabilities that there was no equitable assignment of the rights to the Taxpayer directly or indirectly.

87. The bona vacantia arguments are interesting. However, Section 1012 of the Companies Act 2006 provides:

"(1) When a company is dissolved, all property and rights whatsoever vested in or held on trust for the company immediately before its dissolution (including leasehold property, but not including property held by the company on trust for another person) are deemed to be bona vacantia and–

(a) accordingly belong to the Crown …, and

(b) vest and may be dealt with in the same manner as other bona vacantia accruing to the Crown …"

88. Accordingly, all the property has vested in the Crown as the Crown or the Dukedoms of Lancaster or Cornwall as appropriate. It has not been shown to have been vested in anyone else and certainly not in Y&V's shareholder or other VAT group member.

89. We find that there has been no direct or indirect assignment to the Taxpayer. The Taxpayer has not discharged the factual onus of showing there has been such an assignment and consequently has not shown an assignment that is valid as a matter of law.

Was Y&V a member of the Group at the time of supply?

90. The current and earlier legislation provides:

"Where, under the following provisions of this section, any bodies corporate are treated as members of a group any business carried on by a member of the group shall be treated as carried on by the representative member, and—…

(b) any other supply of goods or services by or to a member of the group shall be treated as a supply by or to the representative member …"

91. The question of when two companies are treated as members of a group is also dealt with in the legislation.

92. It was provided by section 29 VATA 1983 that:

"(3) Two or more bodies corporate are eligible to be treated as members of a group if each is resident or has an established place of business in the United Kingdom and—

(a) one of them controls each of the others; or

(b) one person (whether a body corporate or an individual) controls all of them; or

(c) two or more individuals carrying on a business in partnership control all of them.

(4) Where an application to that effect is made to the Commissioners with respect to two or more bodies corporate eligible to be treated as members of a group, then, from the beginning of a prescribed accounting period they shall be so treated, and one of them shall be the representative member, unless the Commissioners refuse the application; but they shall not refuse it unless it appears to them necessary to do so for the protection of the revenue".

93. There was no suggestion that the companies involved were not UK resident and as there were UK incorporated it would be hard to do so.

94. However, more is needed than just eligibility. There needs to be an application which is accepted. The timing is also dealt with in the legislation. The grouping starts from the beginning of a designated prescribed accounting period.

95. At the time of the supply giving rise to the input tax this was not the case. There was no evidence before us to show anything else.

96. Accordingly, the bodies corporate in question were not treated as members of a group at the relevant time. Consequently, the grouping provisions did not apply and we so find.

97. This flows from the wording of subsection (1) "… where any bodies corporate are treated as members of a group) any… supply of goods or services …to a member of the group shall be treated as a supply by or to the representative member". If the bodies corporate are not members of the group this does not apply and there is nothing to say it does retrospectively in a case such as this.

Does the Taxpayer have some sort of unjust enrichment claim which we could entertain?

98. This is not quite the way the Taxpayer put the case but essentially it was said that HMRC was holding money it was not entitled to and could rectify this by paying a sum equivalent to this amount to the Taxpayer. Seemingly this was because the Group should have the money rather than HMRC.

99. It is not clear to us why the Group is more deserving of the money than HMRC especially as Y&V was not a member of the Group at the time the input tax arose.

100. We do not consider that we have any jurisdiction to deal with a pure unjust enrichment claim.

101. We were not invited to consider a pure unjust enrichment claim and accordingly have not done so.

102. The unjust enrichment approach was essentially a bolster to the assignment and group arguments as showing they pointed in the right direction. This may or may not be the case but the gateway requirements for those approaches to apply would still need to be made out

first and they have not been. There was no evidence before us to support that approach and we so find.

103. On that basis we have not considered the unjust enrichment approach further.

Effectiveness etc.

104. We agree that effectiveness is not in point. Y&V if still in existence could still have claimed. It had been decided to liquidate it. It was this that meant it could not claim rather than any action of the UK government or HMRC.

105. We do not consider that the effectiveness argument is in point here and we so find.

Conclusion

106. We have found (and to the extent not already found we find) that:

(1) Y&V was not a member of the Chubb Group at the time the supplies were made to Y&V;

(2) Accordingly, the conditions for section 43 VATA or its predecessor to apply were not met and the grouping provisions are not in point;

(3) It was not shown on the balance of probabilities that Chubb had become entitled to the right to make the claim by assignment or otherwise;

(4) The overpayment of VAT either generally or as to its amount has not been shown as a matter of fact;

107. There was no European right that was infringed in the particular circumstances under consideration here. Y&V had not made a claim and was liquidated before it was clear that a claim could be made.

108. It did not follow that as Y&V had been liquidated that as a result it gave a right to the claim to a person who had not had the right transferred to it by assignment or otherwise nor to the representative member of a Group to which the taxpayer incurring the input tax subsequently belonged after incurring the input tax and which had been liquidated.

109. The Taxpayer has not discharged the onus on the Appellant to make out their case.

110. Accordingly, the appeal is dismissed.

111. 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.

ADRIAN SHIPWRIGHT
TRIBUNAL JUDGE

RELEASE DATE: 4 October 2013