



TC03091

Appeal number: TC/2012/03529

VAT – late payment – penalty – reasonable excuse – appeal allowed

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

MIDSHIRES ELECTRICAL LIMITED

Appellant

- and -

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

Respondents

**TRIBUNAL: JUDGE P M PETHERBRIDGE
BEVERLEY TANNER**

Sitting in public at Birmingham on the 06 September 2013

Matthew Chilton Sole Director for the Appellant

Ms H Perrett, Officer of HM Revenue and Customs, for the Respondents

DECISION

1. Having heard oral evidence from Mr M S Chilton, the Sole Director of Midshires Electrical Limited (“the Company”), which was not challenged by the Respondent’s representative, the Tribunal allowed the Appellant’s appeal. It did so, finding that the Company had a reasonable excuse for the late payment of its VAT for the quarter ending 03/2011.

The Facts

2. There was due from the Company the sum of £10,344.07 on 07 May 2011, which was not paid on the due date, but paid in two instalments on 02 and 03 June 2011.

3. The Appellant’s reasons for late payment:

- (a) it was a difficult financial time for the Company;
- (b) the Company employed a part-time bookkeeper on an ad hoc basis who was not familiar with on-line payments that had only been recently introduced;
- (c) there was unknown to the bookkeeper a limit on the amount that could be paid on-line from the Company’s bank account – the limit being £10,000.
- (d) Mr Chilton was unaware that the payment had not been processed by his bank until he next met the bookkeeper on 02 June when he made one payment of £10,000 and the balance on the 03 June.
- (e) Mr Chilton had lost his father in December 2010 that had presented him and his family with various problems that his focus on his Company’s affairs had been distracted.

4. The Tribunal took account of the Company’s exemplary record since this default. Also, it noted that the Company had dismissed the bookkeeper and now had in place a reputable firm of accountants who dealt with all administrative financial affairs of the Company.

5. The Tribunal considered that although none of the individual reasons given for the late payment in themselves amounted to a reasonable excuse, when taken cumulatively they did.

6. Having allowed the appeal, Miss Perrett very fairly said that had she been aware of the reasons now given for the late payment, the surcharge would have been withdrawn.

Decision and appeal rights

7. The appeal is allowed.

8. 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.

9. The application must be received by the 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.

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**P M PETHERBRIDGE
TRIBUNAL JUDGE**

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RELEASE DATE: 28 November 2013