



TC03278

Appeal number: TC/2013/07285

VAT – LATE PAYMENT – APPELLANTS SAY HMRC HAD WRONG ADDRESS ON FILE AND SURCHARGE NOTICE FOR FIRST DEFAULT NOT PROPERLY ISSUED – NO EVIDENCE ADDRESS WRONG - APPEAL DISMISSED

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

KLAMPFL KREATIV

Appellants

- and -

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

Respondents

TRIBUNAL: JUDGE N A BAIRD

The Tribunal determined the appeal on 20 January 2014 without a hearing under the provisions of Rule 26 of the Tribunal Procedure (First-tier Tribunal)(Tax Chamber) Rules 2009 (default paper cases) having first read the Notice of Appeal dated 10 July 2013 (with enclosures), and HMRC's Submissions (with enclosures).

DECISION

1 The appellants appeal against the decision of HMRC to impose a surcharge of
5 £473.58 for the periods 01/13 under the provisions of Section 59 of the VAT Act
1994. The return for that period was filed electronically, in time. The payment was
due on or before 7 March 2013 and was received by HMRC 6 days late on 13
March.

10 2. The return for the period 10/12 had been late. HMRC claim to have issued a
Surcharge Liability Notice but the appellants say they never received this. If they had
they would have ensured that the return and the payment for 01/13 were submitted in
time. They say that HMRC have consistently shown an incorrect 'Principal Place of
15 Business Address' and there is no indication that the Surcharge Liability Notice was
sent to the correct address.

3. The position of HMRC is that the obligation is on the appellants to submit their
return and pay their VAT on time. When the return for 01/13 was received
20 electronically an acknowledgment would have been issued reminding that any tax due
would have to be paid and specifying the due date. So far as the address of the
appellants is concerned, HMRC say that the appellants had elected not to have their
correspondence sent to them via an agent or a representative but to have it issued to
them via HMRC's Non-Established Taxable Person Unit (NETPU). The appellants
had acknowledged receipt of the 1/13 Surcharge Liability Notice Extension and there
25 is therefore no reason to suppose that they did not get that for 10/13. Their address
has not changed since registering for VAT.

4. I have given careful consideration to the evidence before me. A reasonable excuse
is normally an unexpected or unusual event, either unforeseeable or beyond the
30 person's control, which prevents him from complying with an obligation when he
otherwise would have done. The matter has to be considered in the light of the actions
of a reasonable prudent taxpayer exercising foresight and due diligence and having
proper regard for his responsibilities under the Taxes Act. It is clear from a letter from
the appellants' agents dated 30 April 2013 that the agents did not understand the
35 concept of an NETPU address or that their clients had registered under that
arrangement. They refer to that address as HMRC's 'own Aberdeen Office'. There is
other correspondence in the file sent to the appellants at the Aberdeen address
including the Surcharge Notice for 01/13. HMRC have provided information on the
system for issuing Surcharge Notices. There was an issue about the appellants' actual
40 business address in Vienna but this was apparently raised by the Tribunal because the
wrong address was given on the appeal form by the agents. HMRC say that the
appropriate notice was issued in respect of the 10/12 period. The notice for 01/13 was
sent to the Aberdeen address, the address on file. There is nothing to suggest that this
was the wrong address or indeed that HMRC ever had the wrong Principal Place of
45 Business address. I find that the VAT was paid late and no reasonable excuse has
been offered.

5. The appeal is dismissed.

6. 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.

**N A BAIRD
TRIBUNAL JUDGE**

RELEASE DATE: 29 January 2014