



TC03871

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Appeal number: TC/2014/02452

Income Tax – late filing of tax return – one day late – taxpayer abroad – hotel internet down – no reason why return could not be filed sooner – no reasonable excuse

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**FIRST-TIER TRIBUNAL
TAX CHAMBER**

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MOHAMMED RAZZAQ

Appellant

- and -

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

TRIBUNAL: JUDGE ALASTAIR J RANKIN

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The Tribunal determined the appeal on 29 July 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 5 May 2014 and HMRC's Statement of Case submitted on 28 May 2014 (with enclosures).

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DECISION

5 1. Mohammed Razzaq is appealing against a penalty of £100.00 imposed by HMRC for the late filing of his personal tax return for the year ending 5 April 2013.

2. The return was received electronically by HMRC on 1 February 2014. As the filing date was 31 January 2014 HMRC issued a penalty notice on 18 February 2014 for £100.00.

10 3. Mr Razzaq appealed against the penalty on 26 February 2014 stating that he was travelling abroad and could not access the HMRC website, despite repeated attempts. After two days he finally got through on 1 February so he was only one day late.

4. By letter dated 5 March 2014 HMRC advised Mr Razzaq that as he knEw that he had to go abroad and that the deadline for filing the tax return was 31 January 2014 he should have made provision for filing the return before he travelled.

15 5. On 16 March 2014 Mr Razzaq requested a review on the grounds that it is very common to submit a tax return close to the deadline; that he travelled and expected an internet connection in the hotel; that it is reasonable to expect internet in hotels but on that night the internet failed. The return was only a few hours or one day late.

20 6. By letter dated 10 April 2014 an Appeals Review Officer of HMRC decided that the decision to charge the penalty was correct. The letter explained the law and advised Mr Razzaq that he had previously filed his returns on line and was therefore well aware of the deadline.

25 7. In his Notice of Appeal to this Tribunal Mr Razzaq states that reasonable discretion can be exercised by HMRC, admits that the return was late but only a few hours late. Mr Razziq states that he tried hard to deliver the return online by 31 January 2014 but the internet in the hotel was not operating well and he was unable to click the 'submit' button.

The Law

30 8. The filing date is determined by Section 8(1D) Taxes Management Act 1970 which states that an electronic return must be submitted on or before 31 January following the end of the tax year.

9. Paragraph 3 of Schedule 55 Finance Act 2009 provides for a penalty of £100.00 if the return is not received by the due date.

35 10. Paragraph 23(1) of Schedule 55 Finance Act 2009 provides that an appeal against a late filing penalty will be successful where the taxpayer shows that there is reasonable excuse.

The Decision

11. There is no statutory definition of reasonable excuse. It is a matter to be considered in the light of all the circumstances of the particular case. Mr Razzaq has been filing his returns electronically since 2008/9. A Notice to File his return was issued to Mr Razzaq on 6 April 2013. He had almost ten months during which he could have filed the return.

12. The Tribunal agrees with the views of Judge Colin Bishopp in the First Tier Tribunal case of Enersys Holdings UK Limited [2010] UKFTT 20 that ‘it seems unlikely that a delay of only a day might ever, without more, amount to a reasonable excuse’.

13. Mr Razzaq has not provided any reasonable excuse as to why he could not have filed the return earlier. Without an explanation the Tribunal cannot see any reason why he had to wait until the very last moment to file the return.

14. The appeal is therefore dismissed and the penalty of £100.00 remains payable.

15. 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.

Alastair J Rankin
TRIBUNAL JUDGE

RELEASE DATE: 01 August 2014