TC04384

Appeal number: TC/2013/00496

PROCEDURE - application for issue of whether HMRC had made a valid discovery under section 29(1) TMA 1970 to be determined as preliminary issue - application refused

FIRST-TIER TRIBUNAL
TAX CHAMBER

JEROME ANDERSON

Appellant

- and -

THE COMMISSIONERS FOR HER MAJESTY'S REVENUE AND CUSTOMS

Respondents

TRIBUNAL: JUDGE GREG SINFIELD

Application decided on 23 April 2015 on the basis of written submissions and without a hearing under rule 29(1) of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009

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DECISION

Introduction

1. The Appellant ("Mr Anderson") appeals against a discovery assessment raised on 2 May 2012 under section 29(1) of the Taxes Management Act 1970 ("TMA 1970") which disallowed a loss of £3,002,772 claimed by Mr Anderson in his self-assessment tax return for the tax year 2008-09. One of the issues in the appeal is whether the Respondents ("HMRC") had made a valid discovery under section 29(1) TMA. Mr Anderson contends that the relevant HMRC officer was not entitled to conclude that the tax in the return was insufficient. This decision concerns an application by Mr Anderson for that issue to be dealt with as a preliminary issue. HMRC oppose the application.

Legal principles and approach

2. The First-tier Tribunal ("FTT") is able to direct that an issue in proceedings can be dealt with as a preliminary issue. Rule 5 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 ("FTT Rules") provides as follows:

> "(1) Subject to the provisions of the 2007 Act and any other enactment, the Tribunal may regulate its own procedure.
>
> (2) The Tribunal may give a direction in relation to the conduct or disposal of proceedings at any time, including a direction amending, suspending or setting aside an earlier direction.
>
> (3) In particular, and without restricting the general powers in paragraphs (1) and (2), the Tribunal may by direction
>
> …
>
> (e) deal with an issue in the proceedings as a preliminary issue …"

3. In considering whether to deal with an issue as a preliminary issue, the FTT will seek to give effect to the overriding objective of the FTT Rules to deal with cases fairly and justly (rule 2(1)). That objective includes dealing with the case in ways that are proportionate to the complexity of the issues and avoiding delay so far as compatible with proper consideration of the issues.

4. There is no dispute between the parties about the relevant legal principles and the approach to be taken in deciding whether a matter should be determined as a preliminary issue. The parties disagree, however, as to the application of those principles to the facts of this case.

5. Both parties referred to the decision of Neuberger J (as he then was) in *Steele v Steele* (2001), The Times 5 June, and I was provided with a transcript of the judgment. In that case, between pages 7 and 13 of the transcript, Neuberger J set out and considered a list of ten questions that a court should ask when deciding whether to order the determination of a preliminary issue. Those questions were as follows:

> (1) Whether the determination of the preliminary issue would dispose of the case or at least one aspect of the case?

(2) Whether the determination of the preliminary issue could significantly cut down the cost and time involved in pre-trial preparation or in connection with the trial itself?

(3) If the preliminary issue is an issue of law, how much effort, if any, will be involved in identifying the relevant facts for the purposes of the preliminary issue? The greater the effort, the more questionable the value of ordering a preliminary issue.

(4) If the preliminary issue is an issue of law, to what extent is it to be determined on agreed facts? The more facts that are in dispute, the greater the risk that the law cannot be safely determined until the disputes of fact have been resolved.

(5) Where the facts are not agreed, to what extent does that impinge on the value of a preliminary issue?

(6) Whether the determination of the preliminary issue could unreasonably fetter either or both parties, or the court, in achieving a just result at trial?

(7) To what extent is there a risk that the determination of the preliminary issue will increase costs and/or delay the trial? In that regard, the court could take account of the possibility that the determination of a preliminary issue might result in settlement.

(8) To what extent may the determination of the preliminary issue be irrelevant? The more likely it is that the issue will have to be determined by the court, the more appropriate it is to have it as a preliminary issue. If, however, the issue is or is likely to be irrelevant then it would not be necessary for the court to consider it.

(9) To what extent is there a risk that the determination of the preliminary issue could lead to an application for the pleadings to be amended so as to avoid the consequences of that determination?

(10) Whether, taking into account all the previous points, it is just to order a preliminary issue?

6. At pages 15-16 of the transcript, Neuberger J observed, in concluding that a preliminary issue should not have been ordered in *Steele v Steele*, that:

> "Preliminary issues have received widely varying judicial comments through the years. In *Tilling v Whiteman* [1980] AC 1 Lord Scarman described preliminary issues as often being 'treacherous shortcuts' which can lead to 'delay, anxiety and expense'. On the other hand, it is clear that determination of preliminary issues can be very beneficial as CPR Part 24 recognises. To my mind, as is so often the case, there are inevitably conflicting factors. The determination of a preliminary issue can be a very satisfactory way of cheaply and quickly disposing of a case or part of a case. However, as this case and *Tilling v Whiteman* show, careful thought should be given to the possible consequences, benefits and disadvantages of having a preliminary issue before that course is adopted."

7. The questions identified in *Steele v Steele* were considered and applied by the FTT and, on appeal, the Upper Tribunal (Norris J) in *Goldman Sachs International and another v Revenue and Customs Commissioners* [2009] UKUT 90 (TCC).

8. The parties also referred to the guidance given by David Steel J (sitting in the Court of Appeal) in *McLoughlin v Grovers* [2002] EWCA Civ 1743, [2002] QB 1312 at [66], as follows:

> "In my judgment, the right approach to preliminary issues should be as follows:-
>
> a. Only issues which are decisive or potentially decisive should be identified;
>
> b. The questions should usually be questions of law.
>
> c. They should be decided on the basis of a schedule of agreed or assumed facts;
>
> d. They should be triable without significant delay, making full allowance for the implications of a possible appeal;
>
> e. Any order should be made by the court following a case management conference."

9. In *SCA Packaging Ltd v Boyle (Northern Ireland)* [2009] UKHL 37, [2009] 4 All ER 1181, the industrial tribunal in Northern Ireland had decided to treat the question of whether the claimant had a 'disability', within the meaning of the Disability Discrimination Act 1995, as a preliminary issue in a case in which she had alleged that she had been discriminated against because she was disabled. The case was subsequently appealed to the House of Lords where Lord Hope, considering whether a preliminary hearing was appropriate, said:

> "9. It has often been said that the power that tribunals have to deal with issues separately at a preliminary hearing should be exercised with caution and resorted to only sparingly. This is in keeping with the overriding aim of the tribunal system. It was set up to take issues away from the ordinary courts so that they could be dealt with by a specialist tribunal as quickly and simply as possible. As Lord Scarman said in *Tilling v Whiteman* [1980] AC 1, 25, preliminary points of law are too often treacherous short cuts. Even more so where the points to be decided are a mixture of fact and law. That the power to hold a pre-hearing exists is not in doubt: Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2005 (SR 2005/150), Schedule 1, rule 18. There are, however, dangers in taking what looks at first sight to be a short cut but turns out to be productive of more delay and costs than if the dispute had been tried in its entirety, as Mummery J said in *National Union of Teachers v Governing Body of St Mary's Church of England (Aided) Junior School* [1995] ICR 317, 323. The essential criterion for deciding whether or not to hold a pre-hearing is whether, as it was put by Lindsay J in *CJ O'Shea Construction Ltd v Bassi* [1998] ICR 1130, 1140, there is a succinct, knockout point which is capable of being decided after only a relatively short hearing. This is unlikely to be the case where a

preliminary issue cannot be entirely divorced from the merits of the case, or the issue will require the consideration of a substantial body of evidence. In such a case it is preferable that there should be only one hearing to determine all the matters in dispute.

10. In *Chris Ryder v Northern Ireland Policing Board* [2007] NICA 43, [2008] 4 BNIL 34, para 16, Kerr LCJ said:

> 'A number of recent appeals from decisions of the Fair Employment/Industrial tribunals have involved challenges to conclusions reached on preliminary points - see, for instance, *Bombadier Aerospace v McConnell and Cunningham v Ballylaw Foods*. While I do not suggest that the hearing of a preliminary issue will never be appropriate for determination by a tribunal, I consider that the power to determine a preliminary point should be sparingly exercised. It is, I believe, often difficult to segregate in a wholly compartmentalised way a single issue in this field from other material that may have relevance to the matter to be decided.'

I would respectfully endorse those observations. The problem in this case is not so obviously one of overlap or inappropriate compartmentalisation. Mrs Boyle's complaint that she was subjected to harassment and aggressive and hostile treatment is a distinct issue, although it seems likely that the effects that this may have had on her, if established, will not be capable of being determined without the leading of more medical evidence. It is rather the cost and delay that has been caused by separating out those aspects of the case from the question whether she was a disabled person within the meaning of the Act. The separation of these two fundamental issues, which are likely to be present in many disputed disability discrimination cases, will rarely be appropriate even if the parties are in favour of it. Furthermore the decision to hold a pre-hearing review must not be regarded as the end of the process of case management. If separation is resorted to, every effort must be made to ensure that pre-hearing reviews are dealt with the least possible delay, bearing in mind that the merits cannot be addressed until the preliminary issues have been resolved in the claimant's favour."

10. Lord Neuberger agreed with Lord Hope saying, at [82], that this "was an inappropriate case in which to have had a hearing to determine a preliminary point."

11. I was also referred to the approach taken by Nugee J in *Merck KGaA v Merck Sharp & Dohme Corp & Ors* [2014] EWHC 428 (Ch) at [18]:

> "In my judgment, the ordering of a preliminary issue is bound to include advantages and disadvantages, or pros and cons, some of which are predictable and some of which are less predictable. As I see it, the task of the court in being asked to order a preliminary issue in a case such as this, is to weigh up the possible pros and cons of ordering or not ordering a preliminary issue and decide where the balance lies. When I put this, or something like it, to counsel, neither of them demurred."

Submissions

12. HMRC say that the issue of whether the relevant HMRC officer had made a valid discovery under section 29(1) TMA 1970 is an issue of mixed fact and law and cannot be determined on the basis of hypothetical facts. HMRC contend that the factual matrix is central to the issue and the FTT will need to enquire into all the facts of the case in order to determine it. HMRC contend that oral evidence will be required from, at least, one witness for each party and a perusal of all the documentary evidence. Mr Anderson disputes this. He submits that HMRC have already served documentary evidence, which they say supports their assertion that they have made a valid discovery and the only other evidence that might be required is a witness statement from the relevant officer. Mr Anderson states that he sees no need to call any witness as the focus of the hearing will be on what the officer knew and reasonably believed and whether there was a discovery.

13. Both parties made submissions on how the questions in *Steele v Steele* should be answered in this case.

(1) In relation to the first question, HMRC acknowledge that it is arguable that, in an appeal against a discovery assessment, a determination that the discovery is invalid may well dispose of the case or part of the case. HMRC submit that the better view is that the legislation envisages that the validity of the discovery should be determined by way of an appeal against the assessment dealing with all the issues rather than in a preliminary hearing to consider the discovery issue separately from the substantive issues. In support of their submission, HMRC refer to and rely on the comments of Nugee J, sitting in the Upper Tribunal, in *Hargreaves v HMRC* [2014] UKUT 395 (TCC). *Hargreaves* was an appeal against a decision of the FTT refusing an application by the appellant, Mr Hargreaves, that the issue of whether a discovery assessment had been validly made should be determined as a preliminary issue. In that case, Nugee J applied *SCA Packaging v Boyle* and held that the FTT was right to conclude that, in order properly to decide the issue of competence, it would need to hear evidence relating to the substantive issue. This meant, Nugee J concluded, that a preliminary hearing in that case would not be a succinct knockout point nor entirely divorced from the merits which were the criteria put forward by Lord Hope in *SCA Packaging v Boyle*. Mr Anderson submits that the matters and facts relevant to the validity of the discovery are wholly distinct from any other aspect of the appeal. Mr Anderson points out that, as referred to by Nugee J in [34] of *Hargreaves*, Lewison LJ in *Hankinson* stated that "in an appropriate case in which [the] question can be decided as a discrete question, sensible case management would allow a preliminary issue to be determined."

(2) HMRC submit that the determination of the validity of the discovery will not cut down the cost and time involved in the pre-trial preparation because the FTT will need to establish what facts Mr Anderson made available to HMRC and when he did so which will require oral evidence. Mr Anderson contends that, in view of material already provided pursuant to Directions issued in December 2013, relatively little time should be required for any pre-trial

preparation apart from the preparation of a witness statement from the relevant HMRC officer.

(3) HMRC submit that there will need to be significant effort in identifying the relevant facts for the purposes of the preliminary issue. Mr Anderson submits that this question from *Steele v Steele* is not relevant in this case. He contends that the question relates to a preliminary issue which is an issue of law and the proposed preliminary issue in this case is, he says, a question of fact.

(4) The fourth question is linked to the third but addresses a point that does not arise in this case. HMRC submit that the issue of the validity of the discovery is one of mixed fact and law and cannot be determined on the basis of agreed facts. Mr Anderson submits that the issue is not an issue of law but one of fact. Whether the preliminary issue is one of mixed fact and law or pure fact, it is clear that facts are in issue and there is no question of the facts being agreed. The proposed preliminary issues is a fact sensitive one and so this question does not assist in deciding whether to order the determination of a preliminary issue in this case.

(5) and (6) HMRC submit that the same evidence will form the basis of both the hearing of the preliminary issue and, if that issue is decided in HMRC's favour, the hearing of the substantive issues. They contend that this creates the risk of conflicting findings of fact if the hearings are before differently constituted tribunals. Mr Anderson submits that there is no risk of conflicting findings of fact because subject matters of the two hearings are totally discrete.

(7) HMRC submit that there is a real risk of delay and increased costs if the discovery issue is heard as a preliminary issue at a separate hearing because the facts that must be considered for the purposes of determining the preliminary issue will have to be considered again for the purposes of the substantive hearing. HMRC also contend that if they are successful on the preliminary issue, there is little prospect of a settlement. Mr Anderson submits that the facts that will have to be considered at the preliminary hearing will not have to be considered again at the substantive hearing because the issues are different and so there should be no overlap.

(8) This question requires an assessment of the relevance of the preliminary issue to the outcome of the appeal as a whole. HMRC submit that little weight should be attached to this factor in the light of the duplication of effort caused by considering the same facts when determining the preliminary issue and the substantive issues. Mr Anderson submits that the proposed preliminary issue will almost certainly have to be considered, along with the other grounds, if all the matters are to be addressed at a single hearing. It follows that the preliminary issue is not of merely academic relevance.

(9) HMRC submit that there is a risk that, as a result of the fact finding exercise that will need to be carried out if the discovery issue is heard as a preliminary issue, further facts may emerge and this may necessitate amendments by the parties to the pleadings. Mr Anderson submits that there is no reason why HMRC would need to

revise their Statement of Case as the preliminary issue is separate from other issues in the appeal.

(10) HMRC submit that, in all the circumstances, it is neither just nor right to order that the discovery issue be determined as a preliminary issue. Mr Anderson points out that the parties take different views on this point and it is for the FTT to decide.

14. Both parties also made submissions on the guidance given by David Steel J in *McLoughlin v Grovers*. HMRC submit that three of the criteria identified by David Steel J are not satisfied in this case. First, the discovery issue is not a question of law. Secondly, the proposed preliminary issue cannot be decided on the basis of a schedule of agreed or assumed facts. Finally, the preliminary issue would not be triable without significant delay, especially in view of the difficulty in securing hearing dates suitable for both parties and the FTT. Mr Anderson contends that all of the criteria are either met or not applicable. The proposed preliminary hearing is potentially determinative of the appeal. In the second criterion, David Steel J did not suggest that questions of fact should never be the subject of a preliminary hearing. As the facts in relation to the preliminary issue will not overlap with issues to be determined at any substantive hearing, the third criterion relating to agreed or assumed facts is not relevant. The preliminary issue is triable without significant delay. The fifth point is not applicable in view of the submissions made by both parties.

15. In relation to the guidance given by Lord Hope in *SCA Packaging* v *Boyle*, HMRC submit that the proposed preliminary issue is not capable of being decided after only a relatively short hearing because the determination of the preliminary issue will require consideration of all the facts. Mr Anderson submits that the preliminary hearing will not require consideration of all of the facts relevant to the case but only those relating to the relevant officer's perception of the facts. Mr Anderson states that the proposed preliminary hearing will be relatively short and estimates a day (as opposed to a full week for a hearing of all the issues).

Discussion

16. In deciding whether to direct that the issue of whether HMRC had made a valid discovery should be dealt with as a preliminary issue, I consider that I should not treat the questions in *Steele v Steele* as a checklist but should assess the possible advantages and disadvantages of dealing with the issue as a preliminary issue. I should then decide whether, on balance, the advantages outweigh the disadvantages. It seems to me that the questions posed by Neuberger J in *Steele v Steele*, the guidelines set out by David Steel J in *McLoughlin v Growers* and the guidance given by Lord Hope in *SCA Packaging v Boyle* can be grouped under the following broad headings:

(1) Relevance and materiality

How relevant is the preliminary issue to the outcome of the proceedings, ie could the determination of the preliminary issue decide the appeal or a material part of the proceedings?

(2) Practicability

Can the preliminary issue be determined in isolation without considering all or much of the evidence in the proceedings? If it is a question of law, are the relevant facts agreed? If it is a question of fact, is the evidence in relation to the preliminary issue separate from the evidence required in order to determine the other issues?

(3) Consequences

What effect will dealing with the issue as a preliminary issue have on the conduct of the proceedings? Is the determination of the preliminary issue likely to lead to new pleadings, submissions or evidence in relation to the other points in issue?

(4) Time and costs

Will dealing with the issue as a preliminary issue shorten or extend the time required to dispose of the proceedings? How long will it take to prepare for the hearing of the preliminary issue? What costs will the parties incur in preparing for and conducting the hearing of the preliminary issue?

17. Having weighed up the various factors and determined whether, on balance, the potential advantages of dealing with an issue as a preliminary issue outweigh the possible disadvantages, I must consider whether, in the circumstances of the case, directing that the issue should be dealt with as a preliminary issue is consistent with the overriding objective in the FTT Rules.

Relevance and materiality

18. It is obvious that, if there is no separate preliminary hearing, the proposed preliminary issue will have to be determined by the FTT. It also appears to me to be clear that a determination that the discovery is invalid would be decisive in that Mr Anderson's appeal would be allowed. If, on the other hand, the FTT were to decide at a preliminary hearing that the discovery was valid then the other issues would still have to be determined at another hearing. In my view, the issue of the validity of the discovery is relevant and material. Other considerations apart, there would be an advantage in determining the issue of the validity of the discovery, which could be determinative of the appeal, separately as a preliminary issue in advance of a hearing of all the issues, if one were necessary. Accordingly, on the basis of the matters considered under this heading, a separate hearing of the preliminary issue would be appropriate. That is, of course, subject to the other factors considered below.

Practicability

19. In this case, the issue is largely one of fact, namely whether the relevant HMRC officer made a valid discovery, ie had sufficient information to justify the conclusion that tax assessed in Mr Anderson's tax return for 2008-09 was insufficient. The question of whether the officer was entitled to come to the view that Mr Anderson's

tax return for 2008-09 was incorrect or incomplete is separate from the other issues, namely the objective perception of a hypothetical officer at the relevant time and whether Mr Anderson was entitled to relief for the loss that he claimed. However, that does not mean that there will not be some overlap of evidence. The issue of what information was made available to the hypothetical officer (and whether that officer could reasonably have been expected to aware of the insufficiency of tax on the basis of that information) may involve consideration of the same material as that which must be considered in relation to the preliminary issue. Although the preliminary issue and the substantive issues (and the facts relating to them) are separate, it seems to me that there is a real risk of overlap and duplication because both require an examination of the information provided by Mr Anderson and/or otherwise available to HMRC. On the material available to me, it is not possible for me to form a view on the extent of the overlap but I am satisfied that there is a real risk that the same evidence will be required at the hearings of both the preliminary issue and the substantive issues. In my view, it would not be sensible to have two hearings at which the same evidence might have to be required when that evidence would only be considered once if there were a single hearing. This factor indicates that it would not be appropriate to have a separate hearing of the preliminary issue.

Consequences

20. I consider that the possibility of conflicting findings of fact, if it exists, could be reduced, if not eliminated, by directing that the same panel that hears the preliminary hearing should also hear the substantive appeal. Further, it is not clear to me why any findings of fact in relation to the proposed preliminary issue would require any amendment to the pleadings of either party in relation to the other issues. If the preliminary issue is determined in favour of Mr Anderson, the other issues fall away so no question of an amendment to the pleadings arises. If it is determined in favour of HMRC, I cannot see what amendments to the grounds of appeal (Mr Anderson's pleadings) could be made to avoid the consequences of the determination that the relevant HMRC officer was entitled to conclude that Mr Anderson's assessment to tax was insufficient. In those circumstances, the other issues in the appeal remain live and if Mr Anderson is successful in relation to any one of those then his appeal will be allowed. In my view, consideration of the consequences of the determination of the validity of the discovery as a preliminary issue does not reveal any reason why it should not be determined as a preliminary issue but nor does it indicate that there is any particular reason why it should be.

Time and costs

21. I consider that a determination of the preliminary issue would not cut down the cost and time involved in pre-trial preparation or in connection with the hearing in this case itself save in one circumstance. Clearly, time and costs would be saved if neither party were to spend any time or incur any costs in preparing for the hearing of the other issues in advance of the determination of the preliminary issue; the FTT were to determine the preliminary issue in favour of Mr Anderson; and HMRC decide not to appeal that decision. In all other circumstances, the total time and costs involved in preparing for and conducting the hearing of the appeal would be, at best, the same or,

in my view more probably, greater if the issue of the validity of the discovery is heard separately from the other issues in the appeal. Mr Anderson submits that the preliminary hearing will focus on a question of fact and so the risk of an appeal is a very low. I am not as confident as Mr Anderson that the decision on the proposed preliminary issue will not raise points of law or that the chances of an appeal are very low. In my view, there is a real risk that (whatever the decision) there will be a further appeal.

22. In addition, it seems to me that the determination of a preliminary issue will inevitably lead to a delay in the final determination of an appeal such as this, where there are multiple issues. Even if both hearings are listed subject to tight time limits, it is clear that there must be sufficient time between the two separate hearings to allow the FTT to give its decision in relation to the preliminary issue and for the parties to consider whether to appeal. It is, accordingly, inevitable that two separate hearings will take significantly longer than one save in the single circumstance described in the previous paragraph. That, however, is not the only matter to be taken into consideration in relation to this question. Where, on one outcome, the determination of a preliminary issue would result in a significant saving of time and costs, because no further hearing would be necessary, then it might still be sensible to have a preliminary hearing notwithstanding the risk that a further hearing might be required. In this case, however, the time saved would, on Mr Anderson's estimate, be four days at most. If one day is not sufficient for the preliminary hearing or the full hearing can be concluded in less than five days then the potential saving is reduced. In my view, the possible saving is not so great or so certain as to suggest that a preliminary hearing would be appropriate. In some cases, the possibility that the determination of a preliminary issue might result in a settlement would outweigh the delay that might thereby be caused. In this case, there are no reasons to believe (and Mr Anderson does not suggest) that a preliminary hearing which found that HMRC had made a valid discovery would make a settlement more likely.

23. In conclusion, it appears to me that the directing that the issue of the validity of the discovery should be dealt with as a preliminary issue in this case is unlikely to result in any saving of time or costs. I consider that, unless the preliminary issue is determined in Mr Anderson's favour and HMRC do not appeal, the separate hearing of the proposed preliminary issue and the substantive issues would inevitably lead to delay and increased costs. My assessment of the likely impact of a preliminary issue on time and costs indicate that it would not be appropriate or sensible case management to direct that the issue of the validity of the discovery should be dealt with as a preliminary issue in this case.

Overriding objective

24. In the context of this appeal, I must consider whether, taking into account all the points discussed above, it is fair and just to direct that the issue of the validity of the discovery should be dealt with as a preliminary issue. That includes considering whether having a separate hearing of the proposed preliminary issue would be proportionate to the complexity of the issues in this case. It is also necessary to consider whether, bearing in mind the need to ensure proper consideration of the

issues, such a hearing would involve or avoid delay. It appears to me that the potential advantages of dealing with the discovery issue as a preliminary issue are far outweighed by the disadvantages, especially the risk of delay and increased costs. Accordingly, I do not consider that it would be consistent with the overriding objective of the FTT Rules to direct that the issue of the validity of the discovery should be dealt with as a preliminary issue in this case.

Decision

25. For the reasons given above, Mr Anderson's application for the issue of whether HMRC made a valid discovery under section 29(1) TMA to be determined as a preliminary issue is refused.

Right to apply for permission to appeal

26. This document contains full findings of fact and reasons for the decision. Any party to this appeal dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the FTT Rules. The application must be received by the FTT 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.

GREG SINFIELD
TRIBUNAL JUDGE

RELEASE DATE: 5 May 2015