[2015] UKFTT 0197 (TC)

TC04387

Appeal number: TC/2013/05462

PROCEDURE – Costs – Respondents' withdrawal of resistance at hearing of substantive appeal - application by appellant for costs on the basis that Respondents acted unreasonably in conducting or defending proceedings for various reasons including failing to concede appeal at an earlier stage and refusing appellant's requests for ADR– application refused

FIRST-TIER TRIBUNAL
TAX CHAMBER

Mr Steven Gee **Appellant**

- and -

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

TRIBUNAL: JUDGE SWAMI RAGHAVAN

Decided on the papers with the consent of the parties having regard to the appellant's application of 17 September 2014, HMRC's response of 6 October 2014 and the appellant's response of 31 October 2014

DECISION

1. The appellant imported a vessel, "Shogun" to live aboard. He was successful in his appeal against HMRC's decision that the supply of the vessel was standard rated as it was not a "qualifying ship" under Item 1 Group 8 of the Value Added Tax Act 1994 ("VATA 1994").

2. This decision deals with the appellant's application for costs under Rule 10(1)(b) of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 (the "Tribunal Procedure Rules") of 17 September 2014 on the basis that HMRC acted unreasonably in defending or conducting the proceedings. HMRC withdrew their resistance to the appeal a half day into the two day substantive hearing (14/15 August 2014) after the appellant and the appellant's expert witness (Mr John Clabburn of European Marine Services) had given evidence. The appellant's principal argument is that it was unreasonable for HMRC to wait until this point to clarify or test Mr Clabburn's evidence; they should have clarified their concerns sooner and should have considered appointing their own expert. HMRC object to the application.

Law

3. Rule 10(1)(b) of the Tribunal Procedure Rules provides that the Tribunal can make a costs order:

> "if the Tribunal considers that a party or their representative has acted unreasonably in bringing, defending or conducting the proceedings …"

4. The issue of how a tribunal faced with an application for costs on the basis of unreasonable conduct where a party has withdrawn from the appeal was considered by the Upper Tribunal in *Shahjahan Tarafdar (t/a Shah Indian Cuisine) v Revenue and Customs Commissioners* [2014] UKUT 0362 (TCC). At [34] the Upper Tribunal suggested the tribunal should pose itself the following questions: (1) What was the reason for the withdrawal of that party from the appeal? (2) Having regard to that reason, could that party have withdrawn at an earlier stage in the proceedings? (3) Was it unreasonable for that party not to have withdrawn at an earlier stage?

5. I accordingly deal with those questions in turn before moving on to the various other points mentioned in the appellant's application for costs.

Background facts /Chronology

6. "Shogun", a Nordhavn 55 vessel was designed and built by Pacific Asian Enterprises (PAE) in 2007. PAE sold and then repurchased the vessel before selling it on to the appellant. The appellant's purchase completed on 15 February 2013 and he imported "Shogun" to the UK from Guernsey on 26 February 2013.

7. In 2013 the appellant provided evidence from the boat designer (PAE) and seller (Nordhavn), from YDSA (an independent UK organisation dealing with yacht design) and a review by Mr Clabburn (a Chartered Engineer (Naval Architect) working as a Marine Survery and Marine Consultant on leisure and commercial vessels of up to approximately 120' in length). In particular he sent a letter and attachments to HMRC on 7 June 2013.

8. The letter and attachments were in the hearing bundle and in his cross-examination Mr Clabburn was asked to consider a table the appellant provided in the letter comparing the specifications of the appellant's vessel with another vessel that had featured in another case. In relation to the appellant's vessel the operating speed was stated by the appellant to be "less than 8 knots".

9. The appellant applied to HMRC for ADR on 17 July 2013. This request was turned down by HMRC on 14 August on the basis that the facilitators would not be able to resolve the case as "it would be a departure from HMRC's established technical or policy view...".

10. On 15 August 2013, the appellant appealed against HMRC's letter of 16 July 2013 which had confirmed the refusal of zero-rating for the importation.

11. The appellant asked for the position on ADR to be reconsidered but his request was again turned down on 10 October 2013. HMRC explained that the original ADR application was rejected not because the relevant officers lacked full possession of the facts but because, policy advice having been sought, resolving the case at ADR "would be a departure from an established policy position".

12. HMRC served its Statement of Case on 3 January 2014. The dispute between the parties centred on whether the vessel was "neither designed nor adapted for use for recreation or pleasure" was satisfied. (There was no dispute between the parties that the vessel satisfied the first of the two requirements for being a "qualifying ship", namely that it had a gross tonnage of at least 15 tons).

13. While HMRC did not dispute that it was possible to live onboard the vessel they contended that the vessel was designed for cruising which would mean it was designed for recreation/ pleasure.

14. The appellant served its evidence on HMRC on 21 March 2014. This comprised Mr Clabburn's report, dated 19 February 2014 and witness statements from PAE (Dan Streech), Nordhavn (Philip Roach).

15. At the same time the appellant's representative maintained the evidence showed the vessel was undisputedly designed and configured for use as a home before the appellant bought it. The letter specifically suggested that HMRC would be acting unreasonably if it continued to defend the proceedings. HMRC replied on 28 May 2014 stating that their position remained unchanged and was as stated in their Statement of Case.

16. To understand the parties' arguments on the costs application, it is necessary to give some further detail about what was in Mr Clabburn's report, and his evidence at the hearing.

17. Mr Clabburn's report answered three questions the first of which concerned whether the vessel was designed exclusively for pleasure or recreational purposes. The report referred to the designer and builder stating the boat was designed to be used as a permanent home. It referred to various original design features which were "exclusively for live-aboard support and purposes". It referred to design adaptations for loose bespoke furniture and an asymmetric design (no port side deck access) as not something that would "usually be countenanced" in a "recreation or pleasure" vehicle due to various reasons and concluded the vessel was neither designed nor adapted for recreation or pleasure purposes.

18. The second question related to whether the vessel exceeded 15 tons, which is not a matter of dispute.

19. In response to the third question "Do I believe that the vessel been designed to used as a home" the report stated at 8.2:

> "From discussions and information provided by Mr Steven Gee I understand that the cruising speed of this Nordhavn is around 5-6 knots,
>
> Maximum engine RPM 2200
>
> Cruising Engine RPM 1600 – 5.2 knots, 1800 6.3 knots.
>
> The above achievable speeds are in still water and make no allowance for normal tidal current / river flow.
>
> In my opinion this vessel is significantly underpowered in terms of an acceptable propulsion speed. As a generalisation the designed cruising speed for a full displacement hull of this size is usually of the order of around 8-10 knots. Shogun has a transit speed far less than the above and in certain situations would have great difficulty operating / manoeuvring in tidal streams / currents, and any proposed safe transit would necessitate careful planning. This reinforces my opinion that the original specification was as a live-aboard and the propulsion was not designed for general cruising but more as a transit facility."

20. At the hearing the appellant and then Mr Clabburn gave oral evidence. The parts of Mr Clabburn's evidence which HMRC highlight as relevant to the decision to withdraw resistance (which the appellant has not challenged as being inaccurate) were as follows.

21. It came out in cross-examination that although the speed of the boat which had been indicated by the appellant in his letter of 7 June 2013 was "less than 8 knots" and the speed indicated in Mr Clabburn's report was 5-6 knots, the speed the vessel was capable of achieving given its physical characteristics was around 4 knots. In Mr Clabburn's opinion the vessel would be unable to make any real progress at all in certain sea conditions e.g. against the currents, or in certain weather conditions, and

this meant the boat could not safely be used for cruising (which would ideally need a cruising speed of 10 to 11 knots in still water).

22. For the reasons considered in more detail below, HMRC withdrew its resistance to the appeal. In the discussion which followed the appellant noted that an award of costs would not follow. The Tribunal confirmed this was its understanding given the case was categorised as standard under the Tribunal Procedure Rules but pointed out that it was not correct to say that the Tribunal had no jurisdiction to award costs given Rule 10(1)(b) of the Rules. It was made clear the Tribunal was not offering any view on the merits of any application under Rule 10(1)(b) should it be made. The appellant's appeal was allowed and with the consent of the parties the Tribunal issued a decision notice under Rule 35 of the Tribunal Procedure Rules, which reflected that result but which did not contain findings of fact and reasons for the decision. That decision notice was released to the parties on 20 August 2014.

(1) What was the reason for HMRC withdrawing their resistance to the appeal?

23. HMRC in their response to the costs application elaborated on the reasons for withdrawing their resistance to the appeal which they had indicated at the hearing. They referred to a combination of two matters, the first relating to Mr Clabburn's oral evidence and the second in relation to a document which HMRC thought was an advert of the appellant's vessel but which turned out to be an advert for a different vessel.

24. In relation to Mr Clabburn's evidence they say their decision to withdraw their resistance was taken in response to the factual position asserted by the expert witness's oral evidence in his cross-examination at the hearing (in accordance with the Respondents' understanding of the relevant legal principles). They say that the expert report served in advance of the hearing provided relatively little detail and in any event failed to address the correct legal tests (the question did not reflect the wording of the legislation, and the appellant's belief as to whether it had been designed to be used as home was not pertinent as HMRC's position that whether or not it could also be used for live-aboard use; the issue was whether is was designed so that it was capable for being used for cruising).

25. In particular they refer to answers given in cross-examination (see [21] above) as to operating and cruising speed and the opinion that the vessel could not safely be used for cruising.

26. HMRC say that once Mr Clabburn gave evidence they realistically accepted that they would not be able to counter his factual assertions effectively at the hearing. HMRC did not have an expert witness who might have been able to gain say Mr Clabburn's views that the vessel's likely speed rendered it unsuitable and unsafe for use for cruising. Given the details and explanations provided in the evidence and the firm and absolute matter in which he expressed himself HMRC considered they would not be able to counter by means only of cross-examination questions based on other documents in the hearing bundle.

27. Also HMRC point to the fact that Mr Clabburn's oral evidence indicated that the shape of the vessel's hull (a pro-stability hull) could not be regarded as a factor which pointed one way or the other to whether the boat was suitable for cruising.

28. As regards the issue of the advert, HMRC say it only became apparent at the hearing, following the appellant's evidence, that the document which HMRC had thought was an advert of the vessel (which stated it was suitable for cruising) was in fact an advert for a different vessel with the same name.

29. It was the combination of Mr Clabburn's oral evidence and the issue relating to the advert which led HMRC to consider that it would be difficult for them to persuade the Tribunal that the vessel was designed or adapted for use for recreation or pleasure.

(2) Having regard to that reason, could that party have withdrawn at an earlier stage in the proceedings?

30. HMRC's reason for withdrawing their resistance was a combination of two different matters. I consider those matters separately as the analysis as to whether the withdrawal could have been made earlier could in principle differ. But, because there was ultimately only one decision to withdraw, having looked at the two matters separately I then need to consider the two matters in the round to reach a conclusion on whether HMRC could have withdrawn earlier.

31. In relation to HMRC's point on the significance of Mr Clabburn's oral evidence, the earliest opportunity, by definition, for such evidence to have been given and tested would have been at the substantive hearing. HMRC could not have withdrawn on the basis of that reason until that testing had been performed. However to the extent the reason underlying the significance of the oral evidence was the disparity between the vessel's operating speed and a safe speed for cruising on the sea then Mr Clabburn's report had already highlighted that. It would have been open to HMRC to have accepted what the report said at face value and to have conceded that the vessel was not therefore suitable for safe cruising.

32. In relation to the reason that it was not clear that the advert HMRC relied on was an advert relating to the appellant's vessel, that lack of clarity existed before the hearing.

33. Taking account of both the above points, the answer to question (2) is that HMRC could have withdrawn their resistance to the appeal at an earlier stage in the proceedings.

(3) Was it unreasonable for that party not to have withdrawn at an earlier stage?

34. The appellant says HMRC should either have accepted the evidence or challenged it. They should not have allowed the case to "drift on to a hearing through apparent inertia". HMRC were not taken by surprise by the evidence, they had sufficient time to consider it. There was no indication the matter was considered seriously or indeed at all. They apparently did not consult or consider appointing their own expert.

35. Although the starting point for examining HMRC's conduct is the time the Notice of Appeal was filed (15 August 2013), and the materials sent in on 7 June 2013 (referred to at [7] above) precede that date I think it is reasonable to expect that these materials would have been made available to HMRC officers at the time when HMRC started defending the proceedings. HMRC also had Mr Clabburns's expert report from 21 March 2014.

36. The appellant highlights that at no time did HMRC raise any queries with the appellant or his representative regarding the content of Mr Clabburn's report. They say it was unreasonable for HMRC to wait until the hearing to clarify or test Mr Clabburn's evidence. The evidential burden passed to HMRC and if HMRC wanted to rebut it they should have obtained their own rebutting evidence in advance of the hearing. If HMRC thought the instructions to the expert were misleading they could have made this point before the hearing. It is, the appellant says, unworthy of a public body to criticise the detailed wording of the instructions to the expert.

37. HMRC say it was not unreasonable for them to consider that Mr Clabburn's report did not settle conclusively the question of whether the vessel was a "qualifying ship" and it was entirely reasonable for them to have taken the view that the evidence should be "clarified and/or tested" in cross-examination.

38. It appears to me that there are two distinct aspects underlying this issue as far as the question of whether it was unreasonable of HMRC not to have withdrawn resistance sooner. First, was it unreasonable for HMRC to have held the legal view that if the vessel's design could be used for cruising then it did not pass the "not adapted or designed for test"? If it was unreasonable then there would be no need to consider whether HMRC were unreasonable in their engagement with the evidence.

39. However if the answer to that question was that the legal view was not unreasonable then the second question which then arises is whether when looking at the expert and other evidence was it unreasonable to wait until the hearing to challenge the view by cross-examination or should HMRC have broached the issuer sooner either by getting its own expert or by exposing its cross examination questions ahead of the hearing?

40. In relation to the first question, it is not necessary for the purposes of this costs application for the Tribunal to determine whether HMRC's view of the law was correct or not but only to consider whether in maintaining a defence of the appeal on the basis of this view HMRC acted unreasonably.

41. Without expressing any view on how HMRC's legal argument would have been decided if the matter had gone to a substantive hearing their contention was in my view at least arguable. It was not therefore unreasonable of HMRC to assess the evidence and likely facts that might be found from that evidence with that legal view in mind.

42. In posing the second question in the terms suggested above I recognise that the fact that HMRC have stated as their reason for withdrawing (answers given in cross-

examination) something that by definition could not have happened sooner than at the first hearing where cross-examination was possible the question of whether HMRC had acted unreasonably in not withdrawing sooner might be said not to arise. However I think, that to approach the matter in that way would result in an over literal application of the enquiry suggested in *Tarafder* and would not fairly reflect the need to examine the way in which proceedings were defended and the conduct of the respondents. It is necessary I think to consider the questions which underlie the situation that HMRC found themselves in and the particular arguments the appellants raise. These are: (1) the timing of the challenge on the points which arose out of cross-examination (could HMRC's concerns about Mr Clabburn's evidence have been broached sooner?), and (2) the way in which the challenge took place (ought HMRC to have called its own expert evidence?).

43. The appellant argues HMRC should either have accepted the evidence or challenged it. However in my view it was not unreasonable for HMRC to have taken the stance that the expert opinion that the vessel's cruising speed was 5-6 knots was not the last word on the issue and that further probing was warranted. This figure was said to be based on what the appellant had told Mr Clabburn, but in earlier correspondence the appellant had said the cruising speed of his boat was "less than 8 knots". It was I think, open to HMRC to explore the basis for Mr Clabburn's view on the vessel's speed and to see what he made of the appellant's stated speed of "less than 8 knots".

44. Further, I do not think it was unreasonable of HMRC to have sought to explore in cross-examination whether, and if so to what extent there was a gap between the vessel's actual operating speed and what would be a safe cruising speed. Mr Clabburn's report mentioned a designed cruising speed of "around 8-10 knots". Taking the upper end of the appellant's range and the lower end of Mr Clabburn's range there was accordingly the potential for the Tribunal to be invited to find that there was a minimal disparity between the actual speed of the vessel and the designed cruising speed. In the event the upshot of Mr Clabburn's evidence was that there was a greater gap between actual speed and safe cruising speed than that indicated by his report but that outcome cannot I think have been one which could reasonably have been foreseen beforehand. Nor could it necessarily have been predicted that Mr Clabburn's performance under cross-examination would be such that the answers he gave were perceived to be authoritative by HMRC and not easily vulnerable to further challenge.

45. The Tribunal's standard directions required the parties to make their witnesses available for cross-examination at the hearing unless the other party had notified them otherwise. HMRC did not notify otherwise. This stance was not an unreasonable one to adopt given the above matters and their concerns about the way certain questions put to Mr Clabburn did not fully reflect their view of the legal provisions.

46. That being the case the next procedural step was therefore for the witness to be made available for cross-examination at the hearing. In that context it was not unreasonable of HMRC to have omitted to make specific queries in relation to the expert evidence in advance of the cross-examination or to disclose their specific lines

of cross examination beforehand. Indeed to do so could potentially have detracted from the benefits of having live evidence tested by such means.

47. Although I can see how it might seem to the appellant that HMRC's reason for withdrawing resistance was not in substance different to the conclusion in Mr Clabburn's report and available to them well in advance of the hearing (that Shogun had "…in certain situations would have great difficulty operating / manoeuvring in tidal streams / currents, and any proposed safe transit would necessitate careful planning") the point is that it was not unreasonable for HMRC to have taken the view that Mr Clabburn's view in his report should be explored and tested further.

48. As for the issue of whether HMRC ought in these circumstances to have instructed their own expert the burden of evidencing facts supporting the appellant's case lay on the appellant. Given there was scope to attack Mr Cladden's evidence through cross-examination it was, in my view, open to HMRC to rely on this means of challenge rather than adducing positive evidence from their own expert. They could reasonably make submissions to the Tribunal that the evidence was not to be accepted at its face value without having to get alternative expert evidence.

49. In so far as HMRC were not precluded from exposing their concerns about the expert report in advance of the hearing, and/or investigating the possibility of instructing their own expert ahead of the hearing, but chose to do neither I cannot find that they acted unreasonably.

50. In relation to the adverts the appellant points out that having received a document from HMRC containing hyperlinks to various adverts he notified HMRC well before the hearing (in an e-mail dated 25 February 2013) that the adverts linked to were not the adverts which the appellant saw and that he offered to provide HMRC with a copy of the correct advert. I also note that the advert has the text "posted on Dec-20-2013" a date which post-dates the date of the importation and which tends to suggest that it is unlikely that the advert was the advert the appellant looked at when he was buying the vessel. Both these matters suggest in my view that HMRC were on notice well before the hearing that there were potential concerns about whether the advert they relied on was relevant to the appellant's vessel.

51. While the website print out of the advert appeared in the list of documents that HMRC would be relying on dated 20 February 2014, it was not for the appellant to second guess what HMRC's purpose was in referring to this document and then tell them that a document HMRC were relying on was not what they thought it was. I HMRC should have engaged with the issue of whether the advert they sought to rely on was the correct document sooner.

52. Given the reason for the withdrawal was a combination of two reasons, which following from the above, point in different directions I must consider the relative materiality of the reasons.

53. In my view the advert issue, if it had been appreciated sooner, would not by itself have led to HMRC withdrawing its resistance to the appeal. Although HMRC's

response to the current costs application sets out that it was "of some significance" for HMRC's case, the point was not specifically raised by HMRC's counsel in his explanation at the hearing as to why the appeal would no longer be contested. The advert issue is depicted as a further issue explaining withdrawal rather than an independent one. Putting to one side Mr Clabburn's oral evidence, it would still have been open to HMRC to invite the Tribunal to find that the vessel was suitable for cruising even if it could be used for other purposes as well without relying on the advert. In contrast, it would have been far more difficult to continue to resist the appeal (on the basis of the legal argument that HMRC was running) in the face of Mr Clabburn's oral evidence that the vessel's operating speed, once the adaptations were take account of, meant the vessel was unsuitable and unsafe for cruising.

54. I therefore conclude in answer to question 3) that HMRC did not act unreasonably in omitting to withdraw their resistance to the appeal at an earlier stage in the proceedings.

Other issues

55. The appellant refers to the fact that after the appeal was lodged there were several officers acting on behalf of HMRC involved: two different HMRC officers and then someone from HMRC's Solicitor's office. He also refers to various unanswered letters and the need to involve his MP. He argues that conducting the proceedings in this way was unreasonable. The varied appointments and last minute changes resulted in additional communication and consequent costs being incurred by the appellant.

56. In this regard the appellant refers to an e-mail of 6 February 2013 in which an HMRC officer expressed "concerns over the number of e-mails, telephone calls and correspondence between team members and [the appellant]" and which suggested that this might be unhelpful to HMRC if his case were to conclude in a Tribunal.

57. As pointed out by HMRC this e-mail relates to the number of persons involved prior to the date of the Notice of appeal (15 August 2013) (i.e. before proceedings started) so cannot itself provide a basis for a finding that the conduct of the "proceedings" had been unreasonable. The inability to rely on unreasonable behaviour of a party prior to the commencement of the appeal was something which was noted by the Upper Tribunal in *Cataña v HMRC* [2012] UKUT 172 (TC) at [8] in referring to the observation of Judge Berner in the First-tier Tribunal case of *Bulkliner Intermodal Limited v HMRC* [2010] UKFTT 395(TC). While that observation also clarified that behaviour prior to commencement of proceedings was not to be entirely disregarded as it might well inform actions taken during proceedings, the number of persons involved before the commencement of proceedings does not appear to me to be something which informed HMRC's behaviour during the proceedings. The concerns the appellant says he experienced with a visit from an HMRC Officer during the officer's visit to the vessel on 11 February 2013 and the subsequent lack of a response from the officer despite intervention from the appellant's MP of 17 May 2013 are also not matters which related to or informed behaviour during the conduct of the proceedings.

58. There still remains however the number of handovers that took place after proceedings started (two HMRC officers and then a handover to HMRC's solicitor). It is possible to envisage circumstances in which the way in which matters were handed over, depending on the particular facts of the case, amounted to the unreasonable conduct of proceedings (e.g. if poor file retention and record keeping systems led to delays and/or the other party repeatedly had to "start from scratch" each time with the new point of contact.) However in this case beyond the fact there had been multiple handovers there is insufficient evidence before me to make findings that the way in which the handovers were carried out was unreasonable conduct on the part of HMRC.

59. The appellant highlights that the appellant's costs come out of his own pocket whereas HMRC's costs come out of the public purse. This, it is argued, imposes a particular duty on HMRC not to use their advantageous costs position oppressively or to let matters simply drift.

60. Putting aside whether it follows from the fact that one set of costs falls on the general body of taxpayers rather than an individual amounts to an advantageous position, there is nothing in the drafting of the Tribunal's Procedure Rules to support the imposition of a particular duty on the part of HMRC in the way the appellant suggests as regards liability to costs. That is not to say HMRC's particular characteristics as a body which has no insignificant resources at its disposal are irrelevant in that the Tribunal's discretion (as informed by the overriding objective in the Tribunal's Procedure Rules to deal with cases fairly and justly) includes (at Rule 2(2)(a)) dealing with the case in ways which are proportionate to amongst other matters the resources of the parties.

61. So for instance what is reasonable to expect in terms of the systems that are put in place for a smooth transition when a party's representation changes might well take account of HMRC's resources when HMRC is that party. However as discussed above it has not been demonstrated that HMRC's behaviour in relation to how they implemented handovers between their personnel was unreasonable. In relation to the suggestion that matters had been left to drift, as discussed above the approach of mounting a challenge to evidence by cross-examination was not unreasonable. That was no less the case when HMRC's resources are taken into account.

62. The appellant refers to the fact that both its attempts to use ADR were rebuffed by HMRC. Did these refusals amount to unreasonable conduct? In relation to the second ADR attempt which was refused on 10 October 2013 (the first attempt was refused before proceedings started) beyond recounting that resolution would not be possible without departing from an established policy view, the letter refusing ADR did not elaborate further. However given that it was clear that the parties were at odds as to the legal interpretation of the relevant provisions and that (as discussed above) HMRC's resistance to the appeal was predicated on a legal view which was not an unreasonable one to hold, it has not been shown to me that HMRC, having given the appellant's ADR request due consideration, were unreasonable in refusing ADR in these circumstances.

Conclusion

63. For the reasons explained above, I do not consider that HMRC acted unreasonably in their conduct or defence of the proceedings.

64. While it is to be appreciated from the correspondence before me that the appellant and his representative went to much effort both to expose the appellant's arguments and position to HMRC and to explore the possibility of settlement without having a hearing before the Tribunal, the reasonableness of the appellant's conduct is not, unfortunately for the appellant, something which affects the above conclusion.

65. The appellant's application for costs is refused.

66. 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.

SWAMI RAGHAVAN
TRIBUNAL JUDGE
RELEASE DATE: 6 May 2015