



**TC05406**

**Appeal number: TC/2011/09666**

*VALUE ADDED TAX – zero rating– supply in the course of catering –  
meals on wheels – appeal dismissed*

**FIRST-TIER TRIBUNAL  
TAX CHAMBER**

**ALAN DESMOND MANIFOLD  
T/A EASY LIVING MEALS ON WHEELS**

**Appellant**

**- and -**

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

**Respondents**

**TRIBUNAL: JUDGE JENNIFER DEAN**

**Sitting in public at Wrexham on 29 September 2016**

**Mr Manifold, the Appellant, was unrepresented**

**Mr Mant, Counsel for the Respondents**

## DECISION

### Introduction

5 1. By Notice of Appeal dated 8 November 2011 the Appellant appealed against the decision of HMRC to raise assessments for tax periods 06/09 and 09/09 to 06/11 (inclusive) in the sum of £8,930 on the basis that the Appellant's hot food sales were standard rated supplies. The Appellant contends that the supplies should have been treated as zero rated.

10 2. The grounds of appeal relied upon were as follows:

- (i) The supplies fall outside the definition of "*in the course of catering*" as detailed in VAT Notice 709/1;
- (ii) The supplies are not for consumption on the premises;
- 15 (iii) The supplies require arranging on serving plates which constitutes preparation by the customer and which falls outside of "*in the course of catering*".

### Preliminary point

20 3. In response to HMRC's amended Statement of Case dated 18 April 2016 the Appellant raised the further argument that the supplies fell to be treated as welfare on the basis of the care offered by the Appellant. Mr Mant on behalf of HMRC noted that no application had been made by the Appellant to amend the grounds of appeal to include the new argument.

25 4. It was agreed by the parties that this issue would be decided as part of the substantive decision and I now set out my decision and reasons. In the interests of justice and fairness and bearing in mind as I do the overriding objective I have decided to grant permission to the Appellant to include in the grounds of appeal the new argument relating to welfare. I take the view that HMRC, having been put on notice of the argument (albeit short notice), were not prejudiced by the Appellant's additional submission and were in a position to respond.

### 30 Background

5. The Appellant carried on business as a sole proprietor providing a meals on wheels service. The Appellant was registered for VAT with effect from 1 June 2009. The application to register for VAT described the business activities as:

*"Cook and deliver hot and chilled meals on wheels to the elderly and housebound."*

35 6. He ceased trading as a sole proprietor on 4 July 2011 when a limited company under the Appellant's control took over the business activities.

7. HMRC visited the Appellant on 17 May 2011. The sales consisted of hot and cold foods which were delivered to customers. The Appellant viewed the supplies as zero rated. HMRC took the view that the hot food sales were standard rated and on that basis issued the assessments against which the Appellant now appeals. On 4 August 2011 the Appellant wrote to HMRC stating that he had spoken to the VAT Helpline and had been advised that “*paragraph 2.2.1 of HMRC Reference Note 709/1 (February 2001) applies and as our service requires significant customer preparation, that this is not a supply in the course of catering and is, therefore, zero rated.*”

8. On 15 August 2011 following a visit to the Appellant’s accountant to inspect the VAT records, HMRC notified the Appellant that it remained of the view that the hot food sales should be standard rated and that assessments would be raised. Output tax was calculated on sales figures for hot food and an allowance was made for input tax based on the records held by the accountant.

9. The sole issue for the Tribunal to determine is whether the Appellant’s supplies of hot food were standard or zero rated.

Legislation

10. Section 30(2) VATA 1994 provides:

“*A supply of goods or services is zero rated by virtue of this subsection if the goods or services are of a description for the time being specified in Schedule 8 or the supply is of a description for the time being so specified.*”

11. Group 1, Schedule 8 to VATA 1994 states:

“*Group 1—Food*

*The supply of anything comprised in the general items set out below, except—*

- (a) *a supply in the course of catering; and*
- (b) *a supply of anything comprised in any of the excepted items set out below, unless it is also comprised in any of the items overriding the exceptions set out below which relates to that excepted item.*

*General items*

Item No

- 1. *Food of a kind used for human consumption...*”

12. Note (3) of Group 1, Schedule 8 to VATA 1994 provided:

“*Notes:*

...

(3) *A supply of anything in the course of catering includes—*

- (a) *any supply of it for consumption on the premises on which it is supplied; and*
- (b) *any supply of hot food for consumption off those premises;*

5

13. Section 31 (1) VATA 1994 states that a supply of goods or services is an exempt supply if it is of a description for the time being specified in Schedule 9.

14. Schedule 9, Part 1, Group 7 (health and welfare) provides that the following are exempt supplies:

10 *“The supply by—*

- (a) *a charity,*
- (b) *a state-regulated private welfare institution or agency, or*
- (c) *a public body,*

*of welfare services and of goods supplied in connection with those welfare service”*

15

15. Note (6) explains:

*“In item 9 “welfare services” means services which are directly connected with—*

(a) *the provision of care, treatment or instruction designed to promote the physical or mental welfare of elderly, sick, distressed or disabled persons,*

20 (b) *the care or protection of children and young persons, or*

(c) *the provision of spiritual welfare by a religious institution as part of a course of instruction or a retreat, not being a course or a retreat designed primarily to provide recreation or a holiday,*

25 *and, in the case of services supplied by a state-regulated private welfare institution, includes only those services in respect of which the institution is so regulated.”*

#### VAT Notice 709/1: Catering and take-away food

30 16. VAT Notice 709/1 does not have the force of law but was intended to help those who prepare and supply food ready for consumption to decide whether the supply is one in the course of catering. It states:

*“2.1 What is the ordinary meaning of catering?”*

*Catering in its ordinary meaning includes the supply of prepared food and drink. It is characterised by a supply involving a significant element of service. Obvious examples of supplies in the course of catering include:*

- 5
- *supplies made in restaurants, cafes, canteens and similar establishments (except supplies of cold take-away food)*
  - *third party supplies of catering for events and functions, such as wedding receptions, parties or conferences*
  - *a supply of cooking and/or preparation of food provided to a customer at the customer’s home, for example for a dinner party*
- 10
- *delivery of cooked ready-to-eat food or meals (with or without crockery or cutlery)*

*Examples of supplies that are NOT in the course of catering:*

- *retail supplies of cold take-away food*
  - *retail supplies of groceries*
  - *supplies of food that require significant further preparation by the customer (see 2.2.1)*
- 15

*(a) 2.2 Catering contracts*

*Any supply of food and/or drink as part of a contract for catering is standard-rated.*

- 20
- However, a contract that merely entitles a food retailer to occupy a set of premises from which they make their supplies does not automatically determine that a supply is one of catering. In these instances it is important to consider all of the activities being carried out.*

25 *2.2.1 Food for customer preparation*

*If you supply food that your customers must prepare themselves before it can be consumed, this is not a supply in the course of catering. This will apply whether the food is delivered to, or collected by, your customers.*

30 ...

*For these purposes, ‘preparation’ includes:*

- *thawing frozen food*
- *cooking food*
- *reheating pre-cooked food and*

- *arranging food on serving plates*”

### Submissions on behalf of HMRC

#### *Supply of hot food for consumption off the premises*

- 5 17. Mr Mant submitted that that the Appellant’s supplies would fall within exception (a) to general item 1 in that although it was “*food of a kind used for human consumption*” it was “*a supply in the course of catering*”. Any food which is delivered and where that food is above ambient air temperature and is ready for human consumption is standard rated by virtue of Note 3 (b).
- 10 18. The Appellant advertised himself, at the time the supplies were made, as delivering hot food to customers in their homes; as such the supplies fell under the definition of catering within Note 3(b).
- 15 19. Mr Mant submitted that the Appellant’s reliance on Notice 709/1 is misconceived; the Notice does not have the force of law and the guidance set out therein cannot affect the meaning of the statute which must be interpreted and applied objectively by the Tribunal. The examples set out in Section 2.1 of the Notice are not exhaustive; the fact that the Appellant is not a take-away, café or restaurant does not mean that the supply cannot be defined as catering. On any proper reading of the Notice it is clear that the Appellant’s supplies should not be zero rated.
- 20 20. HMRC did not accept that the Appellant had been advised on the VAT Helpline that his supplies should be zero rated. However in any event such representations would have no bearing on this appeal as the Tribunal has no jurisdiction to consider issues of legitimate expectation (relying on *HMRC v Abdul Noor* [2013] UKUT 71 (TCC)).
- 25 21. The Appellant’s submission that his place of business is not a “premises” as defined in Notice 709/1 is clearly wrong. “Premises” is not defined in VATA 1994 and on an ordinary construction it means a building or place of business. Mr Mant noted that the guidance defines it first as “*the areas occupied by the retailer*”. The Appellant must occupy a place of business from where the meals are prepared and
- 30 dispatched.

#### *Food supplied in separate containers*

- 35 22. As to the Appellant’s contention that food is provided in separate containers and requires “arranging on serving plates” and therefore “customer preparation” as referred to in Notice 709/1 Mr Mant highlighted Section 2.1 of the Notice which states that “*supplies of food that require significant further preparation by the customer*” (emphasis added) will be examples of supplies not in the course of catering. The examples set out in the Notice are for guidance purposes only and HMRC submit that putting containers of different foods together on a plate does not constitute “*significant*” preparation; by comparison the other examples set out in

Section 2.2.1 would seem to illustrate a more considerable effort by the customer. Mr Mant highlighted Section 2.1 which gives an example of catering as “*delivery of cooked ready-to-eat food or meals (with or without crockery or cutlery)*”. The delivery of cooked food which therefore requires the customer to put it on a plate falls within this category and is identical to the Appellant’s supply. HMRC contend that the reference in the Notice to a “serving plate” indicates serving platters or similar dishes that are designed to carry food to a table; by way of example to carry hors d’oeuvres or other food where the taxpayer has made the supply to a company which then arranges and serves the food at a party.

10 *Welfare*

23. Mr Mant submitted that the provision of meals on wheels as a standalone service cannot constitute supply of a “*welfare service*” as defined in note (6) to Item 9 in Group 7 of Schedule 9. It does not involve the provision of any “care, treatment or instruction.” Moreover the VAT Manual upon which the Appellant relies concerns circumstances where welfare services are provided alongside local authority meals on wheels. It also states that:

“*The provision and delivery of a hot meal for payment is generally a standard rated supply of catering – whether supplied by a take-away business or a meals on wheels service.*”

20 *You will need to examine the contracts, funding agreements or other relevant documentation to establish whether the service consists of no more than the provision and delivery of a hot meal.”*

24. The Appellant has provided no evidence of any contract, funding agreement or other documentation to suggest that the services he provided at the relevant time were anything other than simple provision of a hot meal. In response to the Appellant’s contention that he would liaise with families, report concerns and that the meals on wheels often formed part of a care plan Mr Mant submitted that whilst the provision of hot meals may form part of a broader plan it does not alter the essential characteristics of the supply and could not, on any view, bring it within the definition of “welfare services”. Moreover the Appellant cannot benefit from the exemption as he is not a charity, state regulated private welfare institution or agency, or a public body.

Appellant’s submissions

*Supply of hot food for consumption off the premises*

25. The Appellant submitted that although VAT Notice 709/1 does not have the force of law, it is offered as guidance by HMRC to taxpayers. The definition of the word guidance is “*advice or information aimed at resolving a problem or difficulty, especially as given by someone in authority.*” The guidance offered by HMRC represents its interpretation of the relevant statute and it should therefore provide the taxpayer with sufficient comfort as to how the Act impacts upon the tax affairs of any

particular business. The view that the supplies should be zero rated was confirmed on three separate occasions by HMRC's VAT Helpline.

26. There is no dispute that the Appellant supplies hot food. However the Appellant submits that the supplies fall outside the definition of "*in the course of catering*" which is based on three aspects:

- Consumption on the premises;
- Definition of premises; and
- Significant preparation.

27. The Appellant's supplies are not for consumption on the premises; customers and their families are not encouraged to make personal visits. The Appellant submits that in the absence of a disclaimer the list set out in the Notice is an exhaustive list of premises and does not include that which is operated by the Appellant. In those circumstances the Appellant cannot be said to supply "*hot take-away food*" and its premises does not fall within Note (3)(b) of Group 1, Schedule 8 VATA 1994.

#### 15 *Food supplied in separate containers*

28. Mr Manifold explained that the Appellant delivers meals to people in their own homes; the customers are primarily the elderly and housebound. The food is delivered in a set of aluminium food containers for instance a roast dinner will be delivered in three containers, one containing the meat and gravy, a second containing vegetables and a third containing potatoes. The food should be emptied onto a suitable dinner plate and customers are advised not to re-heat the food whilst still in the foil container.

29. Mr Manifold provided details in a letter dated 4 August 2011 of his contact with HMRC. He stated that he had spoken to the VAT Helpline on three occasions and was advised that paragraph 2.2.1 of HMRC Reference Note 709/1 applies as the service provided by the Appellant requires significant customer preparation which takes it outside of a supply in the course of catering. The Appellant highlighted paragraph 2.2.1 of Notice 709/1 which states that "*preparation*" includes thawing frozen food, cooking food, re-heating food and, most significantly, arranging food on serving plates. The Appellant's customers would not eat the food without first arranging it on a plate. Given the fact that the Appellant's customers are often elderly and housebound the plating of the food requires significant preparation by them due to their health and vulnerability. The Appellant drew the comparison between the supply of food to a catering business to serve at a party and the services provided by the Appellant which, it was submitted, are essentially the same.

#### *Welfare*

30. The Appellant provided statistics showing the growth in life expectancy over half a century. He noted that Government policy seeks to support independent living and the fact that the Government is committed to the "Madrid International Plan on



Ageing” which includes the commitment to ensure quality of life at all ages and to maintain independent living including health and well being. The supply by the Appellant helps its customers to take personal responsibility for their own well being. Referrals are made, inter alia, by Social Services, hospitals, local charities and care agencies and the Appellant’s supply forms part of a care plan for the customer allowing them to remain in their home.

31. HMRC’s Internal manual VATELF3000 states:

“A Local Authority’s meals on wheels activity could also consist of a broader range of services connected to the welfare of recipients. This might include looking-in on the recipient of the meal and reporting on any problems with their general welfare to the Local Authority Social Services department. The extent of this broader “welfare” activity is sometimes not always immediately apparent and some of the elements of the service are not formally reflected in the contract with the Local Authority.

You should look at the reality of the situation, and ask the supplier to provide details of any activities carried out alongside the provision of a meal to enable you to determine whether the supply is one of catering or welfare services, of which a hot meal represents an integral part. If the supply is one of welfare services it will be exempt from VAT.”

32. The Appellant submitted that the area in which he operates no longer has a meals on wheels service operated by the local authorities and consequently referrals are made to the Appellant. On a less formal level the reality of the situation is that the Appellant’s service will include liaising with appropriate agencies or families if there are concerns over a customer’s wellbeing. The Appellant provided documents including a drivers manual and introductory letter to the customer which indicated that checks on the welfare of customers formed part of its service; the Appellant is therefore the modern equivalent of a local authority meals on wheels service and should be exempt from VAT.

### **Discussion and Decision**

33. I considered all of the evidence, both oral and documentary, carefully. I was also referred to a number of authorities which I took into account. The starting point is section 30(2) VATA 1994 by virtue of which a supply can be zero rated where it is “food of a kind used for human consumption”. That provision is, however, subject to the exceptions set out in Group 1, Schedule 8 to VATA 1994. One of those exceptions is where the supply is made “in the course of catering.”

34. Note (3) of Group 1, Schedule 8 VATA 1994 provides the following guidance:

“(3) A supply of anything in the course of catering includes—

(a) any supply of it for consumption on the premises on which it is supplied; and

(b) any supply of hot food for consumption off those premises”

35. In *HM Revenue and Customs v Compass Contract Services UK Limited* (“*Compass*”) [2006] EWCA Civ 730 Mummery LJ gave the following helpful analysis (at [4] – [6] and [18] – [20]):

**“VAT: some basic points**

5 *In order to grapple with the principal issues on the appeal it must first be appreciated that, for the purposes of VAT on supplies of food, two crucial distinctions are made in the VATA 1994.*

**(1) Condition of the food**

10 *The first distinction relates to the condition in which the food is supplied. A distinction is drawn between supplies of hot food (eg fish and chips) and supplies of cold food (eg sandwiches.)*

**(2) Premises**

15 *The second distinction relates to the premises on which the relevant supplies of food are to be consumed. A distinction is drawn between supplies of food for consumption on the premises on which the food is supplied (eg in a restaurant, café or sandwich bar) and supplies of food for consumption elsewhere (eg in the office, in the park or at home).*

20

*Two general rules and an exception should also be noted:*

**(1) Standard rating**

25 *The general rule is that supplies of hot food are standard rated. This is so whether the food supplied is to be consumed on the premises on which the supplies of the food are made or on other premises.*

**(2) Zero rating**

30 *The second rule is that, subject to exceptions, supplies of food for human consumption are zero rated.*

**(3) Exception to zero rating**

35 *If supplies of food fall within the exception, standard rating applies. The relevant exception to zero rating is supplies of food "in the course of catering." This case is about the nature and scope of the exception. The precise question for the VAT Tribunal was whether supplies of sandwiches to customers by Compass from its food outlets at the BBC Television Centre are "in the course of catering."*

40 *On the scope of the expression "in the course of catering" Note (3) to Schedule 8 VATA 1994 is important. The Note deals separately with supplies of food for consumption on the premises and with supplies of hot food. Section 96(9) VATA 1994 provides that Schedule 8 is to be interpreted in accordance with the Notes contained in the Schedule...*

5 The Tribunals, taxpayers and Customs have been supplied with some guidance in the legislation on the sort of thing that was to be an exception to the general rule of zero rating. The guidance is contained in Note (3) which I mentioned earlier. It states what "in the course of catering" includes. It is common ground that "includes" indicates that what follows is not meant to be an exhaustive definition, but is only illustrative of the general concept. The illustrative examples may have the effect of restricting or extending the generally accepted meaning of the expression.

10 *The Note falls into 2 parts. The first part (a) relates only to the premises where the food supplied is to be consumed. If the premises on which the supply is made and the premises on which the food supplied is to be consumed are the same, the supply of the food is treated as a supply "in the course of catering." There is nothing surprising about this. It is directed at the standard case of the supplies of prepared food in a restaurant or café. Catering takes place on the premises and the food supplies are*  
15 *made in the course of it. It applies whether the items of food supplied to be consumed on the premises are hot or cold: both the supply of the hot soup and the supply of a bread roll to accompany the soup, are standard rated supplies of food made "in the course of catering" and as such are excepted from the general rule of zero rating.*

20 *The second part of Note (3) (b) relates to the nature of the supply- that it is of hot food. Supplies of hot food are always treated as standard rated supplies of food "in the course of catering." Again this is not surprising: it is directed at the standard case of a supply of hot prepared take-away or carry-out food to be consumed by the customer not at the caterer's premises, but at home or elsewhere. Supplies of hot food for consumption on or off the supplier's premises are supplies "in the course of catering."*

36. The nature of the business is such that the food was not consumed on the premises on which it was supplied and therefore Note (3)(a) has no bearing on the facts of this case.

30 37. The Appellant disputes that the scope of "in the course of catering" extends to include within it the supplies by the Appellant. However as Mummery LJ made clear in *Compass* the guidance contained within Note (3) is not exhaustive but "illustrative of the general concept". By virtue of Note (3)(b) "a supply of anything in the course of catering includes...any supply of hot food for consumption off those premises." In  
35 my view the preparation and delivery of hot food to customers in their homes by the Appellant clearly falls within this category.

38. There is no reason to doubt that the Appellant sought advice from HMRC's VAT Helpline. However the advice received which was, on the Appellant's case, incorrect cannot alter the nature of the Appellant's supplies or the application of the  
40 legislative provisions to the facts of the case.

39. Notice 709/1 was designed to assist taxpayers in assessing whether or not their supplies should be standard or zero rated; it does not have the force of law. The Notice provides examples of supplies which are and are not in the course of catering, for instance supplies made in restaurants and cafes would fall within the former and

retail supplies of cold take-away food would fall within the latter. The Appellant relies on the example given within the Notice that “*supplies of food that require significant further preparation by the customer*” are not supplies in the course of catering. This ignores the example of “*delivery of cooked ready-to-eat food or meals (with or without crockery or cutlery)*” as a supply in the course of catering. In my view the Appellant’s reliance of section 2.2.1 of the Notice is misconceived. The section falls under the heading “2.2 Catering contracts” which states:

“*Any supply of food and/or drink as part of a contract for catering is standard-rated.*”

“*However, a contract that merely entitles a food retailer to occupy a set of premises from which they make their supplies does not automatically determine that a supply is one of catering. In these instances it is important to consider all of the activities being carried out.*”

### 2.2.1 Food for customer preparation

“*If you supply food that your customers must prepare themselves before it can be consumed, this is not a supply in the course of catering. This will apply whether the food is delivered to, or collected by, your customers.*”

...

“*For these purposes, ‘preparation’ includes...arranging food on serving plates*”

20

40. The Notice must be read as a whole and the various subsections within their relevant context. Section 2.2.1 (customer preparation) is one of the activities referred to in the preceding paragraph that should be considered in deciding whether the supply is standard or zero rated.

25 41. Moreover it is clear that the supplies by the Appellant are more accurately described as “*delivery of cooked ready-to-eat food or meals without crockery or cutlery*” as opposed to “*food that requires significant further preparation*”. In that context the example of “*arranging food on serving plates*” envisages more preparation that emptying the foil containers onto a dinner plate. Guidance on this issue can be found in the judgment of Keene J in *Customs and Excise Commissioners v Safeway Stores plc* [1997] STC 163, cited in *Compass* (at [42] and [43]):

“*Keene J expressed reservations (rightly, in my view) about placing excessive emphasis on the need for there to be a*

35 “*function or activity involving a gathering of people not assembled together simply for the purpose of having a meal. In my view it is perfectly possible for a supply to be “in the course of catering” when made to a family having a meal together, though in such a case one would expect certain other of the indicia of catering to be present, such*

*as delivery, service at the table or the provision of cutlery and other ancillary articles." (page 169c-d)*

5 *There could even be catering just for an individual who wanted a cordon bleu meal catered for at home. Keene J concluded that the test was an objective one: "would the ordinary person regard what was being done as being "in the course of catering?": see page 169j. He made 3 things clear: (a) the factors mentioned by him were not intended to be exhaustive; (b) no one factor by itself is likely to be decisive; and (c) the decision is to be made in the round taking all relevant considerations into account. As to individual factors he said at page 169f-h*

10 *" In my judgment whether a particular supply is "in the course of catering" is a matter of fact and degree. There will be a range of factors to be taken into account by the body which is making the decision. Those factors would appear to me to include such matters as whether the food is indeed supplied in connection with an occasion or*  
15 *other event; the degree of preparation which remains to be carried out by the recipient is likely to be a relevant consideration, as is the presentation of the food itself-in other words is the food in a form where one would ordinarily put it on the table with no further steps being taken? One would bear in mind whether crockery and cutlery are*  
20 *provided along with the food itself and any other of the usual ancillary items which go with a meal. Whether it is delivered, or not, by the supplier may often be a highly material factor. Whether it is served by the supplier to those eating it, at the place where consumption occurs, will also be a relevant factor."*

25 *Some of those factors are relevant to the present case. Others are not. In this case there is no particular event, activity or function, such as a party, that is being catered for. If any thing is being catered for, it is the ongoing nutritional daily requirements of people working at or visiting the BBC Television Centre."*

30 42. In my view the preparation and delivery of the food by the Appellant is a supply in the course of catering. I do not accept that putting the various elements of a meal onto a dinner plate takes the supply outside the scope of catering. The degree of effort by the Appellant's customers cannot, in my view, be said to amount to "*significant*" or "*further preparation*"; the difficulty the individual customers have with emptying the containers due to age or infirmness is relative to the individual and not to the state  
35 of the food.

40 43. I do not accept the Appellant's submission that his place of business is not a "*premises.*" The Appellant relies on section 3.2 of Notice 709/1 in support of his contention that his place of business is not included within the exhaustive list in the Notice and therefore does not fall within the definition of premises. The Notice provides clear guidance as to the fact that "*'premises' are the areas occupied by the retailer and/or those areas which have been specifically provided for the customer to consume the food purchased.*" The Notice goes on to give examples of premises which is not intended as an exhaustive list. On an ordinary construction the area used by the Appellant to prepare the food is the premises and therefore falls within Note  
45 (3) of Group 1, Schedule 8 to VATA 1994.

44. Schedule 9 VATA 1994 provides that supplies by a charity, a state-regulated private welfare institution or agency, or a public body of welfare services and of goods supplied in connection with those welfare service are exempt. The Appellant does not fall within any of these categories and whilst he may consider the services provided by the Appellant as analogous to those of a local authority, the scope of the statutory provisions is such that the Appellant's supplies are not exempt under Schedule 9. I accepted HMRC's submission that the documents produced by the Appellant which indicated that welfare services are provided were not documents which related to the time with which this appeal is concerned and that there was no other documentary evidence which demonstrated that the service provided by the Appellant went beyond the provision and delivery of hot meals.

### **Conclusion**

45. The appeal is dismissed.

46. 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.

**JENNIFER DEAN  
TRIBUNAL JUDGE**

**RELEASE DATE: 10 OCTOBER 2016**