[2018] UKFTT 536 (TC)

TC06720

Appeal number: TC/2017/02932

EXCISE DUTY – assessments for duty and penalties in relation to excise goods seized from the appellant – Jones and Race considered – goods deemed to be for commercial use – penalties – no reasonable excuse – no special circumstances – penalties proportionate – appeal dismissed

FIRST-TIER TRIBUNAL
TAX CHAMBER

BRIAN GILES **Appellant**

- and -

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

TRIBUNAL: JUDGE NIGEL POPPLEWELL
MRS SHAMEEM AKHTAR

Sitting in public at Bristol on 28 June 2018

The Appellant appeared in person

Mr Joshua Carey, Counsel, instructed by the General Counsel and Solicitor to HM Revenue and Customs for the Respondents

Introduction and outline

1. The issue in this case is whether the appellant is liable to Excise Duty of £928 and a penalty of £204. This is in relation to 5kgs of hand rolling tobacco which he brought into the United Kingdom on 6 December 2015 (the "**goods**").

2. On 17 July 2018 the tribunal released a summary decision in this appeal. It dismissed the appeal.

3. On or around 6 August 2018 the tribunal received a letter from the appellant indicating that he disagreed with that decision and "must appeal it subject to you sending me a full copy of the court proceedings".

4. This decision comprises a decision which includes full findings and fact and reasons for the decision.

Evidence and findings of fact

5. The appellant gave sworn oral evidence. We found him to be an honest and credible witness.

6. The respondents called no witnesses. Further evidence was included in the bundle of documents.

7. From the evidence we find the following facts:

> (1) On 6 December 2015 the appellant travelled, as part of a coach trip, from Bruges to Dover Eastern Docks where he was stopped by UK Border Force (Officer Renbridge). When asked by Officer Renbridge what was the purpose of his trip, the appellant told him it was to get some tobacco. The appellant told the Officer that he had purchased 200 packets.
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> (2) The appellant provided a receipt for 10 500g Cutters Choice tobacco packets (which amounts to 5kg of tobacco).
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> (3) When asked by Officer Renbridge how long the tobacco would last him the appellant advised around 6 months. When asked how many roll ups he smoked a day he said 40, 20, 30, not sure and when asked again he said 30 a day on average. Officer Renbridge asked how many packets he smoked in a week and the appellant advised 2 a week. When asked how many roll ups he smoked a day, the appellant then told Officer Renbridge that he smoked 40 a day.
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> (4) Office Renbridge read the commerciality statement to the appellant and asked him if he had understood it. The appellant responded that he did understand it. The appellant was then asked if he wanted to stay for an interview and the appellant declined to be interviewed.
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> (5) The reason for declining the interview was that the appellant, being on a coach trip, was concerned that if he had stayed for the interview he would have missed the coach. The coach contained 40 other people and he had no money on him since he had used up all his spare cash buying

cigarettes. He did not want to stay behind. He would have been stuck in Dover and unable to get home.

(6) The appellant had made no attempt prior to travelling to Bruges to find out how many packets or how much hand rolling tobacco he could bring into this country for own use rather than for commercial use.

(7) Officer Renbridge then seized the tobacco. The statement of case then states that the appellant was issued with various UK Border Force notices namely BOR156, BOR162, Notice 1 and Notice 12A. However an examination of BOR156 indicates that although Notices 1, 12A and a warning letter (BOR162) were "issued", they were "posted". We deal with this in more detail below.

(8) The goods were seized as liable to forfeiture. The appellant had one month to contest the legality of the seizure but failed to do so. On 15 March 2016 HMRC advised the appellant of a potential duty assessment of £928 and the wrongdoing penalty, based on deliberate behaviour, of £455.

(9) Following subsequent correspondence between the appellant and HMRC, the decision to impose the Excise Duty was reviewed and upheld.

(10) However, on 3 March 2017 the decision to assess the appellant to a penalty of £455.06 was reviewed and on that review the appellant's behaviour penalty was upgraded from deliberate to careless behaviour and the penalty reduced to £204.

(11) On 31 March 2017 the appellant sent a notice of appeal appealing against the Duty and penalty.

Service of Notices

8. As mentioned at [7(7)] above, the statement of case suggests that various relevant (and important) notices were given to the appellant at the time of the seizure.

9. But it is not at all clear to us whether service of the statutory notices was by way of giving them to the appellant at the time of the interview; giving them to him at the time of the interview and subsequently following them up by further notices served through the post; or service was effected only through the post. Form BOR156, the seizure information notice, against the headings Notice 1 issued, warning letter issued and Notice 12A issued, has a ring around the yes, and then the word "posted" added in manuscript. There is no signature, but a comment is made "refused to wait for paperwork - abandoned goods".

10. Form BOR162 (the warning letter) which is included in the bundle indicates, in the signature column, includes a similar sentiment. "Refused to wait for paperwork - abandoned goods".

11. We find it more likely than not given that the appellant was not prepared to stay for an interview following the commerciality statement having been read to him (by dint of the fact that he was anxious to get back to the coach and not delay its departure) that the notices were not given to him at the time of seizure but were subsequently sent.

12. Under paragraph 2 of Schedule 3 to the Customs & Excises Management Act 1979 ("**CEMA 1979**"), the relevant notices must be given to the appellant in writing and are deemed to have been duly served on him if they were addressed to him and left or forwarded by post to him at his usual last known place of abode or business.

13. Although no evidence was lead as to the address to which the notices were served, we think it is more likely than not that the notices were sent in accordance with paragraph 2 to the appellant's address. When specifically asked whether he had received them from HMRC, the appellant indicated that if they had been posted to him, he probably would have received them. He has not at any stage in the proceedings or in correspondence with either UK Border Force or HMRC challenged assertions made by HMRC that he had been given notices. For example in their letter addressed to the appellant of 15 March 2016 (although addressing him "Dear Madam"), HMRC indicate that "at the time of the seizure the UK Border Force officers gave you a copy of Public Notice 12A...". Although we think that that may not have been the case, the appellant has not challenged that assertion at any stage in these proceedings.

200 Packets

14. The UK Border Force contemporary record of Officer Renbridge's interview with the appellant indicates that, in response to the question "how much did you purchase", the appellant answered "200 packets".

15. The appellant has denied that he ever said this to Officer Renbridge; instead he says that he said 100 packets. On this question, we find it more likely that the appellant's memory is at fault than that the written record is incorrect.

16. But this is a matter which is not relevant to our decision. The duty assessment is based on 5kg of tobacco (no matter how many packets that was contained in), and the credibility of the appellant and Officer Renbridge are not a material issue in this case.

The Law

17. The relevant legislation provides as follows:

> (1) Excise duty is charged on tobacco product imported into the United Kingdom (Section 2 of the Tobacco Products Duty Act 1979).
>
> (2) HMRC can, by regulations, fix the point at which duty becomes chargeable (Section 1 of the Finance (No. 2) Act 1992).
>
> (3) The relevant regulations provide that
>
> > (a) duty is chargeable on tobacco held for a commercial purpose in the UK
> >
> > (b) tobacco brought into the UK by a private individual, who has bought it duty paid in another Member State for his or her own use, is not held for a commercial purpose (and so no duty is chargeable on it)
> >
> > (c) the duty point for tobacco held for a commercial purpose is the time of importation.

(The Excise Goods (Holding Movement and Duty Point) Regulations 2010, Regulation 13).

(4) Section 49 of the CEMA 1979 provides that goods imported without payment of duty are liable to forfeiture.

(5) Section 139 of that Act provides that anything liable to forfeiture can be seized by HMRC.

(6) That section also introduces Schedule 3 to the Act which, in essence, provides that a person whose goods have been seized can challenge the seizure, but only if he does so in the proper form within the one month time limit. Then, the goods can only be forfeited under an order of the court in condemnation proceedings. If the person fails to serve notice, then there is a statutory deeming under which the goods are deemed "to have been duly condemned as forfeited".

(7) Where it appears to HMRC that an amount has become due by way of excise duty from a person, that amount can be ascertained by HMRC who can then assess that person to that amount of duty (Section 12(1A) of the Finance Act 1994).

(8) A person who is assessed to duty has a right of appeal to this Tribunal (Section 16 of the Finance Act 1994).

(9) A penalty is payable by person who has failed to pay excise duty in these circumstances. The provisions dealing with the penalty are set out in Schedule 41 Finance Act 2008 ("FA 2008"). The penalty is calculated as a percentage of the potential lost duty, i.e. the unpaid excise duty in this case (see paragraphs 4, 5 and 6 of Schedule 41 FA 2008).

(10) In this case, the appellant was initially assessed to a penalty on the basis that the failure to pay the duty was deliberate. In such circumstances, the penalty is 70% of the unpaid duty. Where there has been disclosure of the failure, the penalty may be reduced. The amount of the reduction depends on the level of the penalty and whether the disclosure is prompted or unprompted. On review, the behaviour was subsequently "upgraded" to careless behaviour and the penalty reduced to £204.

(11) HMRC may also reduce the penalty if they consider that there are special circumstances. A reduction for special circumstances is not subject to a statutory minimum and can include a reduction to nil. The legislation states that "special circumstances" does not include the fact that someone is not able to pay the penalty (paragraph 14 of Schedule 41 FA 2008).

(12) A person who is assessed to a penalty has a right to appeal to this Tribunal (paragraph 17 of Schedule 41).

(13) Where an act or failure is not deliberate, a person is not liable to a penalty if there is a reasonable excuse for the act or failure. The legislation states that a lack of funds is not a reasonable excuse, unless attributable to events outside the person's control (paragraph 20 of Schedule 41 FA 2008).

Case law on the issues and its relevance

The legality of the seizure

18. The two leading cases which are relevant to whether this Tribunal has jurisdiction to consider the legality of the seizure in relation to the appeal are *HMRC v Jones and Jones* [2011] EWCA Civ 824 ("*Jones")* and *HMRC v Nicholas Race* [2014] UKUT 0331 (*"Race")*.

19. In *Jones*, Mr and Mrs Jones were stopped at Hull and large quantities of tobacco and alcohol were seized. Initially they challenged the legality of the seizure by issuing condemnation proceedings, but were subsequently advised by their solicitors to withdraw from those proceedings. They sought restoration of the car that had been seized along with the goods. The FTT made findings of fact that the goods were for personal use and allowed the restoration. The Upper Tribunal upheld this decision, and HMRC appealed to the Court of Appeal. The ground for this appeal was that the FTT were not entitled to make findings of fact inconsistent with the deemed forfeiture of the goods. It was bound by the deeming provisions that the goods were illegally imported for commercial use.

20. The Court of Appeal agreed. At paragraph 71 of their decision, Mummery LJ said as follows:

> "71. I am in broad agreement with the main submissions of HMRC. For the future guidance of tribunals and their users I will summarise the conclusions that I have reached in this case in the light of the provisions of the 1979 Act, the relevant authorities, the articles of the Convention and the detailed points made by HMRC.
>
> (1) The respondents' goods seized by the customs officers could only be condemned as forfeit pursuant to an order of a court. The FTT and the UTT are statutory appellate bodies that have not been given any such original jurisdiction.
>
> (2) The respondents had the right to invoke the notice of claim procedure to oppose condemnation by the court on the ground that they were importing the goods for their personal use, not for commercial use.
>
> (3) The respondents in fact exercised that right by giving to HMRC a notice of claim to the goods, but, on legal advice, they later decided to withdraw the notice and not to contest condemnation in the court proceedings that would otherwise have been brought by HMRC.
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> (4) The stipulated statutory effect of the respondents' withdrawal of their notice of claim under paragraph 3 of Schedule 3 was that the goods were deemed by the express language of paragraph 5 to have been condemned *and* to have been "duly" condemned as forfeited as illegally imported goods. The tribunal must give effect to the clear deeming provisions in the 1979 Act: it is impossible to read them in any other way than as requiring the goods to be taken as "duly condemned" if the owner does not challenge the legality of the seizure in the allocated court by invoking and pursuing the appropriate procedure.
>
> (5) The deeming process limited the scope of the issues that the respondents were entitled to ventilate in the FTT on their restoration appeal. The FTT had to

take it that the goods had been "duly" condemned as illegal imports. It was not open to it to conclude that the goods were legal imports illegally seized by HMRC by finding as a fact that they were being imported for own use. The role of the tribunal, as defined in the 1979 Act, does not extend to deciding as a fact that the goods were, as the respondents argued in the tribunal, being imported legally for personal use. That issue could only be decided by the court. The FTT's jurisdiction is limited to hearing an appeal against a discretionary decision by HMRC not to restore the seized goods to the respondents. In brief, the deemed effect of the respondents' failure to contest condemnation of the goods by the court was that the goods were being illegally imported by the respondents for commercial use.

(6) The deeming provisions in paragraph 5 and the restoration procedure are compatible with Article 1 of the First Protocol to the Convention and with Article 6, because the respondents were entitled under the 1979 Act to challenge in court, in accordance with Convention compliant legal procedures, the legality of the seizure of their goods. The notice of claim procedure was initiated but not pursued by the respondents. That was the choice they had made. Their Convention rights were not infringed by the limited nature of the issues that they could raise on a subsequent appeal in the different jurisdiction of the tribunal against a refusal to restore the goods.

(7) I completely agree with the analysis of the domestic law jurisdiction position by Pill LJ in *Gora* and as approved by the Court of Appeal in *Gascoyne*. The key to the understanding of the scheme of deeming is that in the legal world created by legislation the deeming of a fact or of a state of affairs is not contrary to "reality"; it is a commonly used and legitimate legislative device for spelling out a legal state of affairs consequent on the occurrence of a specified act or omission. Deeming something to be the case carries with it any fact that forms part of the conclusion."

21. In *Race*, Warren J had to consider whether *Jones* was restricted to restoration cases, or whether it was of more general application, and in particular, whether it applies to assessments for duty and penalties. He considered it to be of general application, and said, at paragraph 26

> "*Jones* is clear authority for the proposition that the First-tier Tribunal has no jurisdiction to go behind the deeming provisions of paragraph 5 Schedule 3. If goods are condemned to be forfeited, whether in fact or as the result of the statutory deeming, it follows that having been bought in a Member State and then imported by Mr and Mrs Jones, they were not held by the taxpayers for their own personal use in a way which exempted the goods from duty. The reasoning and analysis in *Jones* did not turn on the fact that the case concerned restoration of the goods and not assessment to duty."

22. And again at paragraph 33 of that decision

> "Taking those factors in turn, I do not consider it to be arguable that *Jones* does not demonstrate the limits of the jurisdiction. It is clearly not open to the Tribunal to go behind the deeming effect of paragraph 5 Schedule 3 for the reasons explained in *Jones* and

> applied in [EBT]. The fact that the appeal is against an assessment to excise duty rather than an appeal against non-restoration makes no difference because the substantive issue raised by Mr Race is no different from that raised by Mr and Mrs Jones".

23. The legal principles which these cases illustrate, and which are relevant to this appeal are:

(1) Goods are duly condemned as illegally imported if the appellant fails to invoke the Notice of Claim procedure to oppose condemnation (or, having so invoked that procedure, he subsequently withdraws from it).

(2) In these circumstances the goods are deemed to have been condemned as illegally imported goods (ie. held for a commercial purpose). And since they have been deemed to be held for a commercial purpose, the FTT cannot consider whether the goods were for the appellant's personal use.

(3) Nor can the FTT consider any facts which the appellant submits are relevant to any assertion that the goods were for personal use. I have no power to reopen the factual basis on which the goods were condemned.

(4) The foregoing principles apply to cases concerning restoration of the goods, to assessments for excise duty, and to assessments for penalties.

(5) Where an appellant complains of procedural unfairness, his remedy is judicial review. The FTT has no inherent power to review decisions of HMRC. (See *Race* at paragraph 35).

> "As to the second of the Judge's reasons, concerning procedural unfairness, it is clear that paragraphs 5 and 6 of Schedule 3 are Convention compliant. That is not to say that HMRC could escape the consequences of any unfairness on their part in relation to the application of those statutory provisions. The remedy for that sort of unfairness, however, is judicial review, which itself gives a Convention-compliant remedy to a taxpayer alleging the sort of unfairness about which the Judge was concerned. The First-tier Tribunal has no inherent power to review decisions of HMRC; although it does have certain statutory powers in relation to certain decisions, it has no power to review, or to provide any remedy, in relation to procedural unfairness of the sort which concerned the Judge....."

The appellant's case

24. The appellant's grounds of appeal can be construed from his written representations to the respondents and from his oral submissions before us.

25. As we understand it the appellant has the following grounds of appeal:

(1) The goods were for personal use.

(2) He doesn't have enough money to pay the penalty as he is a pensioner.

(3) He did not say, when interviewed, that he had 200 packets of tobacco. He said that he had 100. That throws the figures out and might throw out the decision too.

(4) He was singled out when others travelling on the same trip were not stopped or penalised. Some other passengers on his trip left their bags on the carousel whilst he, who collected his, was selected for interview.

(5) He is a lone parent.

26. The respondents case is that:

(1) None of the foregoing submissions made by the appellant comprise either a reasonable excuse or special circumstances.

(2) This Tribunal is bound by the decision in *Jones* and *Race* and we must therefore disregard any submissions that the appeal should succeed on the basis that the goods were for personal use. This applies as much to the penalty as it does to the duty.

(3) There are no special circumstances which apply.

Discussion

The Excise Duty appeal

27. This Tribunal is bound by the decisions in *Jones* and *Race*. The appellant did not challenge the seizure of the goods in condemnation proceedings.

28. By failing to challenge the seizure, the goods are deemed to have been duly condemned and forfeited on the grounds that they have been illegally imported. In other words they are deemed to have been imported for a commercial purpose and not personal use.

29. We are therefore bound by *Race* to disregard the appellant's submission that his appeal against the duty assessment should succeed on the basis that the goods were for personal use.

30. The appellant's second submission which is applicable to the duty assessment is his claim that he was singled out. We deal with this at [55] below.

The Penalty Appeal

31. As regards his appeal against the penalty assessment, the appellant's submission that the goods were for personal use is no more effective than in his appeal against the duty assessment. We cannot consider it.

32. As *Race* makes clear, there are other issues which are raised by an appeal against the penalty which the Tribunal can take into account.

33. These include reasonable excuse and special circumstances. We have also considered whether the penalty is disproportionate.

Reasonable excuse

34. The test we adopt in determining whether the appellant has a reasonable excuse is that set out in the *Clean Car Co Ltd v C&E Commissioners* [1991] VATTR 234, in which Judge Medd QC said:

> "The test of whether or not there is a reasonable excuse is an objective one. In my judgment it is an objective test in this sense. One must ask oneself: was what the taxpayer did a reasonable thing for a responsible trader conscious of and intending to comply with his obligations regarding tax, but having the experience and other relevant attributes of the taxpayer and placed in the situation that the taxpayer found himself at the relevant time, a reasonable thing to do?"

35. We remind ourselves that the legislation states that lack of fund is not a reasonable excuse unless attributable to events outside the person's control.

36. And so we cannot take into account the appellant's submission that he cannot afford to pay since he is a pensioner. Even if we could, he is submitting this in the context that he cannot afford to pay the penalty rather than he could not afford to buy duty paid tobacco in the UK in the first place. A lack of funds now cannot be relevant to the reason why he imported tobacco for commercial purposes in the first place.

37. Nor do the submissions that he was singled out when others were not, and that he is a lone parent, comprise a reasonable excuse. We consider the former submission in a little more detail below. But as regards the latter, there are many lone parents who comply with the legislation relating to tax and excise duties.

38. Furthermore, as the appellant candidly admitted, he did not check before he went on his trip, what amount of tobacco he could bring back into this country for personal use. A reasonable taxpayer in the appellant's position would, in our view, have undertaken such a check.

Special circumstances

39. While "special circumstances" are not defined, the courts accept that for circumstances to be special they must be "exceptional, abnormal or unusual" (*Crabtree v Hinchcliffe* [1971], 3 All ER 967) or "something out of the ordinary run of events" (*Clarks of Hove Ltd v Bakers Union* [1979], 1 All ER 152).

40. Paragraph 14(2) of Schedule 41 provides that "special circumstances" does not include the ability to pay.

41. Failure to have considered the exercise of its discretion to reduce a penalty by virtue of special circumstances, in the first place, or failure to give reasons as to why (if HMRC has made a decision), special circumstances do not apply, can render the "decision" flawed.

42. However, we can only allow a taxpayer's appeal that HMRC have come to a flawed decision if we do not find that HMRC's decision was an inevitable one that it would have come to on the evidence before it.

43. In the review letter of 3 March 2017, the reviewing officer deals with special reduction and special circumstances. She identifies the circumstances which might be special in accordance with the definitions set out above. She indicates that an inability to pay cannot be a special circumstance so she cannot take into account the fact that the appellant is a pensioner and cannot afford to pay. She does not consider that there are any circumstances in the appellant's situation which would merit a special reduction and so does not make one. She does not give reasons as to why this is the case, and because of this we do consider that HMRC's decision is flawed.

44. We can therefore consider whether there are special circumstances which apply to this taxpayer. But we do not consider that there are. The appellant's circumstances are nowhere close to being exceptional, abnormal or unusual, or something out of the ordinary run of events. We have to accept that he imported the goods for commercial purposes. The fact that he cannot pay and that he is a pensioner must be statutorily disregarded. We do not think that being singled out for inspection when others were not comprises special circumstances.

45. And so we do not think that there are special circumstances which apply to the appellant that warrant a special reduction.

Proportionality

46. As regards the penalty, the doctrine of proportionality is relevant.

47. It is clear from the Court of Appeal decision in *John Richard Lindsay v Commissioners of Customs & Excise* [2002] EWCA SIV 267, that the doctrine of proportionality applies to penalties levied by HMRC where goods are imported into the UK. At paragraph 51 of the judgment:

> "Turning to European Community Law, Mr Baker submitted that here also the principle of proportionality had to be observed. Where penalties were imposed for the unlawful importation of goods, they must not be disproportionate (see *Louloudakis v Elliniko Demosio* (Case C-262/99) at paragraphs 63-69)"

48. And then, later in the judgment.

> "53. It does not seem to me that the doctrine of proportionality that is a well-established feature of European Community Law has anything significant to add to that which has been developed in the Strasbourg jurisprudence."

49. There is, however, a passage in Louloudakis, which is helpful in the present context in that it is a general application. We quote from paragraph 67:

> "Subject to those observations, it must be borne in mind that, in the absence of harmonisation of the Community legislation in the field of the penalties applicable where conditions laid down by arrangements under such legislation are not observed, the Member States are empowered to choose the penalties which seem appropriate to them. They must, however, exercise that power in accordance with Community Law and it's general principles, and consequently with a principle of proportionality"

50. There are then references to Strasbourg authority. The judgment continues:

> "The administrative measures or penalties must not go beyond what is strictly necessary for the objectives pursued and the penalty must not be so disproportionate to the gravity of the infringement that it becomes an obstacle to the freedoms enshrined in the Treaty"

51. We are mindful of the view expressed by the Upper Tribunal in the case of *The Commissioners for HMRC v Total Technology (Engineering) Limited* [2012] UKUT 418 (TCC) where at paragraph 99 of the Judgment:

> "99..... But in assessing whether the penalty in any particular case is disproportionate, the tribunal must be astute not to substitute its own view of what is fair for the penalty which Parliament has imposed. It is right that the tribunal should show the greatest deference to the will of Parliament when considering a penalty regime just as it does in relation to legislation in the fields of social and economic policy which impact upon an individual's Convention rights. "

52. The test is whether the penalty is "not merely harsh but plainly unfair" (see *Simon Brown LJ in International Transport Roth GmbH v Home Secretary* [2003] QB728 at [26]).

53. The penalty assessment is for £204. As set out at [7(10)] above, HMRC have now determined that the penalty is due to careless behaviour by Mr Giles. So the maximum penalty for which he could be liable is 30% of the unpaid duty. HMRC have further reduced the penalty by 8%.

54. We are obliged to deem the goods held for commercial purpose. In pursuing the legitimate aim of ensuring that someone who imports goods for a commercial purpose pays duty on them in order that legitimate trade in the UK is not prejudiced, we believe that a penalty of £204 is proportionate; it is proportionate to the infringement, and to that legitimate aim. It is also proportionate to the amount of duty. It is very far from being plainly unfair.

Unfairness

55. The appellant submits that he was singled out when others travelling on the same trip were not stopped or penalised. And that this is in some way unfair.

56. This Tribunal is a creature of statute and has no general, inherent, jurisdiction to consider whether or not HMRC have behaved fairly in any particular circumstances. Furthermore, this specific issue has been dealt with in *Race* which binds us. If the appellant does wish to pursue a complaint that he has been treated unfairly, then the matter must be brought by way of judicial review. We have to say that our view is that the prospects of the appellant succeeding in making a successful claim are slim.

Decision

57. For the foregoing reasons we dismiss this appeal.

Appeal rights

58. 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. 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.

NIGEL POPPLEWELL
TRIBUNAL JUDGE

RELEASE DATE: 13 September 2018