[2019] UKFTT 127 (TC)

TC06993

Appeal number: TC/2018/02630
TC/2013/06590

Procedure – application to reinstate appeal out of time - Rule 17 FTT Rules– whether application precluded by section 85(4)Value Added Tax Act 1994 – yes – whether if not so precluded appeal should be reinstated - no

FIRST-TIER TRIBUNAL
TAX CHAMBER

SHAZADI NEELAM BAIG T/A ZARA TRADING COMPANY **Appellant**

- and -

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

TRIBUNAL: JUDGE IAN HYDE

Sitting in public in Birmingham on 17 December 2018

Mr Ilahi appeared for the Appellant

Mr Waters, officer, for the Respondents

DECISION

1. The appellant is a VAT registered business trading on a wholesale basis in mobile phones and other electronic goods. In 2013 the appellant appealed VAT assessments made in respect of accounting periods in 2011 but this appeal was withdrawn by the appellant in 2016. The appellant now seeks to reinstate the appeals or alternatively make a fresh appeal in respect of the same issues.

2. This appeal is not concerned with the substantive aspects of the appellant's dispute with HMRC but whether the appellant is entitled to reinstate appeals or otherwise make a fresh appeal.

The facts

3. The appellant did not appear or give evidence at the hearing but was represented by Mr Ilahi who said he was an accountant representing the appellant on a pro bono basis to ensure she had a voice.

4. I find the facts as set out below.

5. HMRC issued VAT assessments on 25 July 2013 for the VAT periods 03/11 and 04/11 in the amounts of £2,222 and £36,725.70 respectively on the basis that the appellant did not hold satisfactory evidence to support the reclaim of input tax on the purchase of mobile phones in both periods and to support the zero rated export of mobile phones in the 04/11 period ("the 2011 Assessments").

6. HMRC upheld the assessments on review in a letter dated 12 September 2013.

7. The appellant appealed to the Tribunal on 23 September 2013 under Tribunal reference TC/2013/06590 ("the 2013 Appeal").

8. HMRC served their statement of case on 1 April 2014 and an amended statement of case on 14 May 2014.

9. The appellant's solicitors notified the Tribunal of their withdrawal from proceedings by email on 25 November 2016 and notified HMRC on 28 November 2016 ahead of the hearing of the appeal listed for 13 December 2016.

10. The Tribunal confirmed the withdrawal on 29 November 2016.

11. On 4 April 2018 in response to a demand for payment from HMRC the appellant submitted a fresh notice of appeal in respect of the 2011 Assessments together with an application to reinstate the 2013 Appeal, received by the Tribunal on 11 April 2018 (assigned Tribunal reference TC/2018/02630) ("the 2018 Appeal").

12. The appellant has applied for the 2013 Appeal to be reinstated or, alternatively, for the 2018 Appeal to be allowed late.

Legislation and Tribunal Rules

13. Section 85 Value Added Tax Act 1994 ("VATA") provides;

"85 (1) Subject to the provisions of this section, where a person gives notice of appeal under section 83 and, before the appeal is determined by a tribunal, the Commissioners and the appellant come to an agreement (whether in writing or otherwise) under the terms of which the decision under appeal is to be treated–

(a) as upheld without variation, or

(b) as varied in a particular manner, or

(c) as discharged or cancelled,

the like consequences shall ensue for all purposes as would have ensued if, at the time when the agreement was come to, a tribunal had determined the appeal in accordance with the terms of the agreement (including any terms as to costs).

(2) Subsection (1) above shall not apply where, within 30 days from the date when the agreement was come to, the appellant gives notice in writing to the Commissioners that he desires to repudiate or resile for the agreement.

(3) Where an agreement is not in writing–

(a) the preceding provisions of this section shall not apply unless the fact that an agreement was come to, and the terms agreed, are confirmed by notice in writing given by the Commissioners to the appellant or by the appellant to the Commissioners, and

(b) references in those provisions to the time when the agreement was come to shall be construed as references to the time of the giving of that notice of confirmation.

(4) Where–

(a) a person who has given a notice of appeal notifies the Commissioners, whether orally or in writing, that he desires not to proceed with the appeal; and

(b) 30 days have elapsed since the giving of the notification without the Commissioners giving to the appellant notice in writing indicating that they are unwilling that the appeal should be treated as withdrawn,

the preceding provisions of this section shall have effect as if, at the date of the appellant´s notification, the appellant and the Commissioners had come to an agreement, orally or in writing, as the case may be, that the decision under appeal should be upheld without variation.

(5) References in this section to an agreement being come to with an appellant and the giving of notice or notification to or by an appellant include references to an agreement being come to with, and the giving of notice or notification to or by, a person acting on behalf of the appellant in relation to the appeal."

14. An application for reinstatement must be made under rule 17 of the Tribunal Procedure (First-tier Tribunal)(Tax Chamber) Rules 2009 ("the Tribunal Rules");

"17(1) subject to any provision in an enactment relating to withdrawal or settlement of particular proceedings, a party may give notice to the Tribunal of the withdrawal of the case made by it in the Tribunal proceedings, or any part of that case-

(a) by sending or delivering to the Tribunal written notice of withdrawal; or

(b) orally at hearing

(2) The Tribunal must notify each party in writing of its receipt of a withdrawal under this rule

(3) A party who has withdrawn their case may apply to the Tribunal for the case to be reinstated

(4) An application under paragraph (3) must be made in writing and be received by the Tribunal within 28 days after –

(a) the date that the Tribunal received the notice under paragraph 1(a);or

(b) the date of the hearing at which the case was withdrawn orally under paragraph (1)(b)"

15. Rule 2 of the Tribunal Rules provides;

"2(1) the overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly

(2) Dealing with a case fairly and justly includes-

(a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties;
(b) avoiding unnecessary formality and seeking flexibility in the proceedings;
(c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;
(d) using any special expertise of the Tribunal effectively; and
(e) avoiding delay, so far as compatible with proper consideration of the issues.

(3) The Tribunal must seek to give effect to the overriding objective when it-

(a) exercises any power under these Rules; or
(b) interprets any rule or practice direction.

(4)….

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16. Rule 5 of the Tribunal Rules provides as follows;

"(1) Subject to the provisions of the 2007 Act and any other enactment, the Tribunal may regulate its own procedure

(2)…

(3) In particular…the Tribunal may by direction…

(a) extend or shorten the time for complying with any rule…unless such extension or shortening would conflict with a provision of another enactment setting down a time limit"

17. Under Rule 7(2);

"(2) If a party has failed to comply with a requirement in these Rules… the Tribunal may make such action as it considers just, which may include-

(a) waiving the requirement…"

The Appellant's Arguments

18. The appellant argues that the reason she discontinued the 2013 Appeals was because she had no funds to continue. The appellant has debts of over £40,000 and no assets. Further, the framework of the Tribunal system is such that it is impossible for a lay person to navigate.

19. On the substance of the dispute, the appellant argued that HMRC have ignored all the documentation provided to them to justify recovery of the input tax and refused to accept third party export documentation. There has been a serious miscarriage of justice as the assessments were not in best judgment.

20. The appellant asks that the Tribunal allow the appeal to proceed in accordance with their case management powers in Rule 5(3) and adhere to the overriding objective in Rule 2 to deal with cases fairly and justly. Allowing the appeal to proceed would not prejudice HMRC but refusal would severely prejudice the appellant.

HMRC's Arguments

21. HMRC argue first that by virtue of section 85 VATA the Tribunal has no power under the Tribunal Rules to reinstate the 2013 Appeals. Section 85(4) provides that if a taxpayer notifies the Tribunal that it does not want to proceed with an appeal and there is no objection under section 85(4)(b), then the parties are deemed to have reached an agreement from the date of notification, with the same consequences as if the Tribunal had determined it. The only relevant caveat to that is provided by section 85(2) where if the appellant notifies HMRC within 30 days that it wishes to repudiate

or resile from the agreement, then it has no effect and the appeal continues. If the appellant does not so notify HMRC then the withdrawal is to have the same effect as a settlement agreement and by virtue of section 85(1) is to be treated as a decision of the Tribunal.

22. HMRC argue that these provisions of section 85 override Rule 17 and Rule 5, both of which expressly state that they are subject to the application of other enactments.

23. In the current appeal therefore the Tribunal has no jurisdiction to reinstate the 2013 Appeal. This argument had been accepted in the recent decision of Judge Falk in this Tribunal in *OWD Limited T/A Birmingham Cash & Carry (In Liquidation) v HMRC* [2018] UKFTT 0497.

24. Second, even if it does have such power to reinstate, the Tribunal should not do so on the basis of the approach taken by the Upper Tribunal in *William Martland v Commissioners for Revenue & Customs* [2018] UKUT 178 (TCC). The appeal was withdrawn by notification to the Tribunal on 25 November 2016. The appellant had the right to withdraw under Rule 17(4)(a) until 23 December 2016 but chose not to. Accordingly the appeal was treated as withdrawn with effect from the appellant's notification to the Tribunal on 25 November 2016.

25. The fresh appeal and application to reinstate was made on 11 April 2018, more than 15 months late after the expiry of the 28 day window to resile in Rule 17, which, according to the observation of the Upper Tribunal in *Romaserve (Property Services) Ltd v HMRC* [2015] UKUT 254 is a serious and significant delay. There is no explanation for this delay.

26. Further, relying on Moore-Bick LJ's comments in *R(oao Dinjan Hysaj) v SSHD* [2014] EWCA Civ 1633, HMRC argue that insufficiency of funds and the lack of representation is not a sufficient reason. The appellant chose to withdraw the appeal only 15 days prior to the substantive hearing when she could have familiarised herself with the rules and proceeded unrepresented or asked for an adjournment pending appointment of a new representative.

27. HMRC argue that they would now be prejudiced by the Tribunal allowing an extension of time. They have already incurred substantial costs in pursuing the original appeal for three years and would incur further costs if late reinstatement was to be allowed. It is now more than four and a half years since the appellant submitted the original appeal. HMRC have treated the matter as closed and the officer who issued the original assessments has left HMRC and potential witnesses may no longer be available.

Section 85 and Rule 17

28. The first issue to consider is whether I have jurisdiction to reinstate the 2013 Appeal at all. HMRC argue that Section 85 is conclusive leaving no scope for the Tribunal to consider a late application for reinstatement by virtue of the combined application of Rules 5 and 17.

29. Section 85 is principally concerned with settlements of appeals, the purpose being to treat any settlement as if it were a decision of the Tribunal but with a "cooling off " period of 30 days for taxpayers to change their mind. However, in section 85(4) this framework is applied to the withdrawal of an appeal, treating it as an agreement. HMRC have a right to object (section 85(4)(b)) but otherwise section 85(4) applies the provisions of section 85 to the withdrawal as if there had been an agreement. A taxpayer withdrawing an appeal therefore has the benefit of the 30 day cooling off period in section 85(2) but subject to that section 85(1) applies and

> "…the like consequences shall ensue for all purposes as would have ensued if, at the time when the agreement was come to, a tribunal had determined the appeal in accordance with the terms of the agreement.."

30. In the context of the withdrawal of an appeal section 85(4) specifies that the effect is to be as if the taxpayer and HMRC had agreed that "the decision under appeal should be upheld without variation".

31. Nevertheless, Rule 17 also covers withdrawal of an appeal and at Rule 17(3) allows a party to seek reinstatement. Rule 17(4) requires the application to reinstate to be made within 28 days of the date the Tribunal received the notification of withdrawal.

32. However, the Tribunal Rules allow for flexibility. Rule 5(3) allows the Tribunal to extend the time for compliance with any rule and Rule 7(2) allows the Tribunal to waive any party's failure to comply with any requirement in the Tribunal rules. Further, Rule 2 and the overriding objective requires the Tribunal to deal with cases "fairly and justly". Specifically the Tribunal is required to avoid unnecessary formality (Rule 2(2)(b)) and ensure so far as possible that the parties are able to participate fully in the proceedings (Rule 2(2)(c)).

33. The appellant is arguing that the flexibility in the Tribunal Rules should be exercised to extend the 28 day time limit in Rule 17 and allow the reinstatement. HMRC argue that Section 85 is conclusive.

34. Judge Falk in *OWD Limited T/A Birmingham Cash & Carry (In Liquidation) v HMRC* [2018] UKFTT 0497 has recently considered this issue. I am not bound by her decision but I agree with it.

35. Section 85 provides a regime for dealing with settlements and withdrawals including the legal consequences of doing so. There is a 30 day cooling off period in section 85 but no provision for a taxpayer to make a late application to resile from the deemed agreement.

36. Rule 17 provides a similar regime for withdrawal but it is qualified;

> "17(1) Subject to any provision in an enactment relating to withdrawal or settlement of particular proceedings, a party may give notice to the Tribunal of the withdrawal or settlement of particular proceedings…"

37. Further, Rule 5 which directly covers the Tribunal's ability to extend time limits, is itself qualified;

> "(1) Subject to the provisions of the 2007 Act and any other enactment, the Tribunal may regulate its own procedure...

38. In my view taking section 85 and the Tribunal Rules together, the flexibility allowed to the Tribunal in Rules 2, 5 and 7 are attractive but in my view do not allow the Tribunal to override Section 85. Section 85 does not provide a taxpayer with a right to seek to resile outside the 30 day window but the effect of the appellant's application, were it to be successful, would be to read into section 85 such a right.

39. Further, the draftsman of the Tribunal Rules, by making the qualification in Rule 17(1), clearly intended legislation such as section 85 to apply in priority to Rule 17.

40. As the Upper Tribunal in *HMRC v CM Utilities limited* [2017] UKUT 205 observed;

> "Two features of rules 17 are readily apparent. The first is that it provides for the process of withdrawal (and reinstatement) of a party's case, but it does not provide for the consequences of withdrawal. The second is that it is expressly subject to statutory provisions relating to both withdrawal and settlement. It is to those statutory provisions that we must look to determine the consequences of withdrawal."

41. Rule 5 is also by the qualification in Rule 5(1) not intended to allow the Tribunal to override legislation. Rule 5 being so clearly qualified, I do not think Rules 2 and 7 can assist the taxpayer by providing the flexibility that Rule 5, which covers expressly case management powers to extend time limits, does not.

42. In conclusion I therefore agree with HMRC and find that Rule 17 must operate within the constraints of section 85 and so the Tribunal does not have the jurisdiction to hear the appellant's late application for reinstatement.

43. Having so decided it is unnecessary for me to decide whether I would, were there to be a power to reinstate outside of the time limits in Rule 17 pursant to Rule 5 of the Tribunal Rules, grant the appellant's application. However, for completeness I shall do so.

The principles relevant to reinstatement

44. The approach to take in deciding issues as to non compliance with time limits in the Tribunal has been the subject of a number of recent cases, including the Upper Tribunal in *Data Select Limited v Revenue and Customs Commissioners* [2012] UKUT 187, *McCarthy & Stone (Developments) Limited v HMRC* [2015] STC 973, and the Court of Appeal in *BPP Holdings Ltd v HMRC* [2016] EWCA Civ 121 (with which the Supreme Court did not interfere, *BPP Holdings Ltd v HMRC [2017]UKSC 55)*.

45. Ryder LJ made the following comments in BPP in the Court of Appeal;

" [37] While I might commend the Civil Procedure Rules Committee for setting out the policy in such clear terms, it need hardly be said that the terms of the overriding objective in the tribunal rules likewise incorporate proportionality, cost and timeliness. It should not need to be said that a tribunal's orders, rules and practice directions are to be complied with in like manner to a court's. If it needs to be said, I have now said it.

[38] A more relaxed approach to compliance in tribunals would run the risk that non-compliance with all orders including final orders would have to be tolerated on some rational basis. That is the wrong starting point. The correct starting point is compliance unless there is good reason to the contrary which should, where possible, be put in advance to the tribunal. The interests of justice are not just in terms of the effect on the parties in a particular case but also the impact of the non- compliance on the wider system including the time expended by the tribunal in getting HMRC to comply with a procedural obligation. Flexibility of process does not mean a shoddy attitude to delay or compliance by any party….

[42] In my view the new CPR 3.9 and comments by the Court of Appeal in *Mitchell* and *Durrant v Chief Constable of Avon and Somerset Constabulary* [2013] EWCA Civ 1624…. clearly show that courts must be tougher and more robust than they have been hitherto when dealing with applications for relief from sanctions for failure to comply with any rule, direction or order. [Counsel for HMRC's] answer to this point was that the Jackson reforms and CPR 3.9 do not apply to tribunals. He pointed out that the overriding objective in CPR1 is in different terms to the overriding objective in r 2(3) of the UT rules. From April 2013, CPR 1.1 provides that the overriding objective is to enable the court to deal with cases justly and proportionate cost. CPR 1 also provides that dealing with the cases justly includes ensuring that it is dealt with expeditiously. [Counsel for the taxpayer] submitted that the courts and tribunals should not apply different standards to matters such as their attitude to the grant of an extension of time.

[43] I agree that the CPR does not apply to tribunals. I do not however, accept that the differences in the wording of the overriding objectives in the CPR and UT Rules mean that the UT should adopt a different, ie more relaxed, approach to compliance with rules, directions and orders than the courts that subject to the CPR…

[44]… Morgan J applied CPR 3.9 by analogy...in just the manner I have suggested is appropriate….

[45] The overriding objective does not require the time limits in those rules to be treated as flexible. I can see no reason why time limits in the UT Rules should be enforced any less rigidly than time limits in the CPR. In my view, the reasons given by the Court of Appeal in *Mitchell* for a stricter approach to time limits are applicable to proceedings in the UT as to proceedings in courts

subject to the CPR. I consider that the comments of the Court of Appeal in *Mitchell* on how the court should apply the new approach to CPR3.9 in practice are also useful guidance when deciding whether to grant an extension of time to a party who has failed to comply with a time limit in the UT Rules"

46. More recently the Upper Tribunal in *William Martland v Commissioners for Revenue & Customs* [2018] UKUT 178 (TCC) reviewed these decisions in the context of an application to make a late appeal and provided fresh guidance;

"44. When the FTT is considering applications for permission to appeal out of time, therefore, it must be remembered that the starting point is that permission should not be granted unless the FTT is satisfied on balance that it should be. In considering that question, we consider the FTT can usefully follow the three stage process set out in *Denton*:

(1) Establish the length of the delay. If it was very short (which would, in absence of unusual circumstances, equate to the breach being "neither serious nor significant"), then the FTT "is unlikely to need to spend much time on the second and third stages" – though this should not be taken to mean that applications can be granted for very short delays without even moving on to a consideration of those stages.

(2) The reason (or reasons) why the default occurred should be established.

(3) The FTT can then move onto its evaluation all "all the circumstances of the case". This will involve a balancing exercise which will essentially assess the merits of the reason(s) given for the delay and the prejudice which would be caused to both parties by granting or refusing permission.

45. That balancing exercise should take into account that particular importance of the need for litigation to be conducted efficiently and at proportionate cost, and for statutory time limits to be respected. By approaching matters in this way, it can readily be seen that, to the extent that they are relevant in the circumstances of the particular case, all the factors raised in *Aberdeen* and *Data Select* will be covered, without the need to refer back explicitly to those cases and attempt to structure the FTT's deliberations artificially by reference to those factors. The FTT's role is to exercise judicial discretion taking into account all relevant factors, not to follow the checklist.

46. In doing so, the FTT can have regard to any obvious strength or weakness of the appellant's case; this goes to the question of prejudice – that is obviously much greater prejudice for an applicant to lose the opportunity are putting forward a really strong case than are very weak one. It is important however that this should not descend into a detailed analysis of the underlying merits of the appeal….

47. For convenience I will adopt the tests as set out in *Martland*.

48. On length of delay, the first of the factors in *Martland*, the appellant discontinued the appeal on by notification to the Tribunal on 25 November 2016 and her right to withdraw under Rule 17(4)(a) expired on 23 December 2016. The fresh appeal and application to reinstate was made on 11 April 2018, more than 15 months late. I agree with HMRC that, applying the three month test in *Romaserve*, this delay is serious and significant.

49. On the second stage, whether there are reasons for the delay, the appellant has argued that she cannot afford to pay for advice and the system is confusing. The Upper Tribunal in *Martland* address this point at paragraph 47;

> "47. Shortage of funds (and consequent inability to instruct a professional advisor) should not, of itself, generally carry any weight in the FTTs consideration of the reasonableness of the applicant's explanation of the delay..."

50. The Upper Tribunal then relied upon the judgment of Moore-Bick LJ in *R(oao Dinjan Hysaj) v SSHD* [2014] EWCA Civ 1633, an immigration appeal, who addressed the question of insufficiency of funds at paragraph 43;

> " 43. Mr Benisi sought to explain part of the delay that had occurred in his case by asserting that he did not have sufficient funds at his disposal to enable him to instruct solicitors to file a notice of appeal at the right time. In my view shortage of funds does not provide a good reason for delay. I can well understand that litigants would prefer to be legally represented and that some may be deterred by the prospect of having to act on their own behalf. Nonetheless, in the modern world the inability to pay for legal representation cannot be regarded as providing a good reason for delay. Unfortunately, many litigants are now forced to act on their own behalf and the rules apply to them as well.
>
> 44… if proceedings are not to become free for all, the court must insist on litigants of all kinds of following the rules. In my view, therefore, being a litigant in person with no previous experience of legal proceedings is not a good reason for failing to comply with the rules"

51. In the current appeal the appellant was 15 weeks away from the hearing of her original appeal when she withdrew her appeal. She said that she withdrew in 2016 because she could not afford advice at the time and now wishes to reinstate the appeal because HMRC have made a demand for the unpaid VAT. The appellant is now proposing to run the appeal without professional advice and her financial difficulties are still the same. As to why the appellant waited 15 months to apply for reinstatement, without evidence from the appellant it is difficult to determine her reasons. Mr Ilahi suggested that the delay was due to the appellant not knowing what to do. Further, as shown in her notice of appeal for the 2018 Appeal where she said "…I received a demand letter and so I am making this aappeal (sic)" she left the matter alone as she was not being chased by HMRC.

52. In the light of the guidance in *Martland* and *Hysaj,* I cannot see that lack of funds and the related concern that the system is too complicated for normal taxpayers to navigate, is a good reason for the appellant's delay. Further, whilst perhaps an understandable human reaction, it is not a good reason for the appellant as a VAT registered trader to wait until HMRC demand payment of the unpaid VAT.

53. The third stage of the process is a balancing exercise to assess the merits of the reasons given for the delay and the prejudice which would be caused to both parties by granting or refusing permission.

54. The appellant would clearly be significantly prejudiced by a refusal to reinstate. This is a very serious matter for her as she is already in financial difficulties and the amount of tax at stake is for her significant. HMRC also argue that they would be prejudiced because of the delay and the difficulties of running an appeal now but in my view this is not as significant as the prejudice to the appellant.

55. It has not been practicable to review the substantive merits of the 2013 Appeal but I assume for the purposes of this application that the appellant's case has some merit.

56. Nevertheless, prejudice to the appellant must be balanced against the merits of the reasons for delay and take into account the need for litigation to be conducted efficiently and at proportionate cost, and for statutory time limits to be respected. I have not found any good reasons for delay. Further, the appellant's application, if granted, would significantly adversely affect the conduct of tax appeals, allowing taxpayers to withdraw from an appeal just before a hearing and restart the litigation years later. This cannot be in the interests of efficient litigation. HMRC are entitled to assume that, once the window for resiling in Rule 17 has expired, that is the end of the appeal. There may be instances where there are sufficiently good reasons for accepting late reinstatement but these have not been provided by this appellant.

57. In all the circumstances, including the significant prejudice to her of a refusal to reinstate, the length of the delay and the lack of good reasons and concerns as to the timely and efficient management of litigation, I dismiss the appellant's application to reinstate the 2013 Appeal.

The 2018 Appeal

58. Finally for completeness it is worth mentioning the status of the 2018 Appeal. The appellant made a fresh appeal in 2018, the 2018 Appeal, which purported to be an application for reinstatement and a new freestanding appeal, but being simply a reiteration of the 2013 Appeal raising the same issues in respect of the same disputed tax.

59. I have decided above I do not have jurisdiction to reinstate the 2013 Appeal or, in the alternative, I do not see sufficient grounds to do so. Accordingly, under section 85(1) the 2013 Appeal must be treated as if it had been determined by the Tribunal at the time of the withdrawal in 2016. Applying the doctrine of *res judicata,* a taxpayer cannot appeal to this Tribunal afresh a matter that has already been determined by the

Tribunal. That being the case, to the extent that was part of the appellant's intentions, the appellant does not have an appealable matter on which to found the 2018 Appeal.

Conclusion

60. Accordingly the appellant's application to reinstate the 2013 Appeal is dismissed. Further, to the extent necessary, the 2018 Appeal is also dismissed.

61. 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.

IAN HYDE
TRIBUNAL JUDGE

RELEASE DATE: 19 FEBRUARY 2019