[2020] UKFTT 510 (TC)

# TC07980

*Excise Duty – seizure of vehicle – restoration of vehicle refused – reviewing officer decided that owner was complicit in smuggling attempt – whether or not decision of officer was reasonable – held no – decision remitted for a further review*

**FIRST-TIER TRIBUNAL**
**TAX CHAMBER**

**Appeal number: TC/2019/03681V**

**BETWEEN**

**MARIJA KLEVIENES** **Appellant**

**-and-**

**THE DIRECTOR OF BORDER REVENUE** **Respondents**

**TRIBUNAL: JUDGE PHILIP GILLETT**
**NORAH CLARKE**

**The hearing took place on 15 December 2020. With the consent of the parties, the form of the hearing was a video hearing. All parties attended remotely using the Kinly Cloud Video Platform, although Officer Brenton, of UK Border Force, was sitting with Mr Murray, counsel for Border Force. A face to face hearing was not held because this was not considered appropriate during the current pandemic.**

**We were referred to a trial bundle of 249 pages which was in electronic form.**

**Dr Anton van Dellen, counsel, instructed directly, for the Appellant**

**Ryan Murray, counsel, instructed by the General Counsel and Solicitor to the Director of Border Revenue, for the Respondents**

## DECISION

### INTRODUCTION

1. This was an appeal against a decision of Border Force, contained in a letter dated 20 April 2019, not to restore a Volvo tractor unit and trailer which had been seized at Dover Docks on 15 January 2019 because it was found to be carrying goods which were subject to seizure. This letter was issued following a review of a decision contained in an earlier letter of 6 March 2019.

### THE FACTS

2. We received witness statements and oral evidence from Officer Brenton of UK Border Force, the reviewing officer, and Marija Klevienes, owner and operator of the seized vehicle. Ms Klevienes gave her evidence via a tribunal appointed interpreter. We found both witnesses to be credible and reliable witnesses.

3. Most of the underlying facts are agreed between the parties and we find the following as matters of fact.

4. On 15 January 2019 a Volvo tractor unit, registration number KNF 088, and a trailer, registration number LL288, were seized at the Port of Dover because the vehicle was found to be carrying 286,880 cigarettes, with a potential loss of revenue of over £74,000, which were considered to be held for a commercial purpose but in respect of which none of the proper methods of removing excise goods to the UK were used. The goods were therefore liable to forfeiture under both Regulation 88 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 and section 49(1)(a)(i) Customs and Excise Management Act 1979 ("CEMA"). The vehicle was also seized pursuant to 141(1)(a) CEMA because it was being used for the carriage of goods liable to forfeiture.

5. The driver of the vehicle was Laimutis Juzenas, a Lithuanian national. When the vehicle was intercepted the load was found to be a groupage load, one of which was four fridge freezers. On the four handwritten CMR's produced one was for the four fridge freezers. The Border Force officer conducted a full examination of the fridge freezers and on completion found a total of 286,880 cigarettes concealed within the fridge freezers, with an estimated value for revenue purposes of £74, 698.53.

6. Following the interception, Mr Juzenas was interviewed by Border Force officers. He said that he did not speak English and no interpreter was provided for him. However the facts as presented by Border Force following this interview are not in dispute in any material sense and we therefore accept them as matters of fact.

7. Mr Juzenas stated that he had collected three loads in Vilnius, Lithuania and a fourth load of fridge freezers had been delivered to a layby on the road by a minibus. The driver assisted in loading them onto the trailer and was awaiting delivery instructions for the fridge freezers.

8. The officer was satisfied that the goods were held for a commercial purpose but that none of the proper methods of removing excise goods to the UK were used and that the goods were therefore liable to forfeiture.

9. The legality of seizure has not been challenged and therefore the goods are duly condemned as forfeit to the Crown by the passage of time under paragraph 5 of Schedule 3 of CEMA and so any excise goods are confirmed as having been improperly imported.

10. In an email received on 21 January 2019, restoration was requested for the unit and the trailer by W Legal, the legal representative of the Ms Klevienes. On 14 and 15 February

2019 UKBF acknowledged the restoration request and requested proof of ownership for the unit and trailer and further information. Proof of ownership was received for the unit and trailer on 18 February 2019 from Dr van Dellen, Ms Klevienes's representative, who confirmed that he was acting on behalf of Ms Klevienes.

11. UKBF received further submissions, documentation and an agent's authority from Dr van Dellen together with a number of requests for the restoration of the vehicle.

12. On 6 March 2019, UKBF replied, refusing to restore the unit and the trailer.

13. On 6 March 2019, Dr van Dellen wrote asking for a review of the decision of 6 March 2019 and, on 6 March 2019, UKBF wrote back explaining the review process and inviting Dr van Dellen to provide any further information in respect of the request for a review.

14. No further information was received and, on 20 April 2019, Officer Brenton of UKBF wrote to Dr van Dellen with the outcome of the review, confirming the original decision not to restore the vehicle to Ms Klevienes.

15. The Freight Forwarding Contract showed the pick-up address as being Vilnius, Graiciuno g. The delivery address was simply stated to be United Kingdom and the contact details were a single name, Roman, and a UK mobile telephone number.

16. The handwritten CMR showed the consignee name and address as Hrono Jager Freight Ltd, Unit B, Neptune Business, Dolphin Way, Purfleet. There is no such company at this address but there is a company called Jager Freight Ltd at that address.

17. We were shown an "awareness sheet" signed by a number of Ms Klevienes's drivers, including Mr Juzenas, which was a confirmation that they had been given the business's book of regulations which stated, inter alia, that drivers must be vigilant at the time of loading and that they were responsible for the goods throughout the journey.

**Evidence of Ms Klevienes**

18. Ms Klevienes's witness statement made the following key points:

(1) The driver was responsible for or complicit in the smuggling attempt.

(2) Ms Klevienes was not responsible for or complicit in the smuggling attempt.

(3) Ms Klevienes did not "turn a blind eye" to any warning signs but she did not in any case consider that "turning a blind eye" is the same as being complicit in or responsible for the smuggling attempt.

(4) She was not reckless but she does not consider that recklessness by her is the same as being complicit in or responsible for the smuggling attempt.

19. Importantly, Mr Murray, on behalf of UKBF, did not challenge Ms Klevienes's statement that she was not complicit in or responsible for the smuggling attempt. We therefore accept that statement as being factually correct.

20. Ms Klevienes had been in business since 2001, but had only been operating a transport business since 2012. She currently operated eight vehicles, including the one which had been seized.

21. Her business had made a loss of EUR 38,000 in 2019 and she estimated that losses for the current year would be approximately EUR 30,000. She did however acknowledge that some of this might be down to Covid. She had not replaced the seized vehicle because she had no funds available for this. The business had current loans of the order of EUR 100,000 and cash in hand at banks of EUR 5,000.

22. Following the seizure, the driver involved, Mr Juzenas had been demoted and was now only allowed to work inside Lithuania.

23. Ms Klevienes stated that the various "warning signs", such as the pick-up away from a formal depot or the single name and telephone number on the Freight Forwarding Agreement did not give her cause for concern as she had never encountered a smuggling attempt before and therefore had no idea that these might be warning signs. We accept this as factually correct. She had however changed her procedures subsequently.

24. The arrangements for this load had been made by telephone, by Roman, with whom Ms Klevienes had had no previous dealings. She had understood that the pick-up would be in a car park but she was only concerned that the regulations regarding packaging had been complied with and not that this might imply suspicious activity.

25. She had not carried out any checks on the name and address of the consignee.

26. Ms Klevienes stated that her policy was to place total reliance on her drivers to do things correctly. She did not see it as her responsibility to make detailed checks.

**THE LAW**

27. Under s139(1) Customs and Excise Management Act 1979 ("CEMA"):

> "[a]ny thing liable to forfeiture under the customs and excise Acts may be seized or detained by any officer or constable..."

28. Section 141(1) then provides:

> "where any thing has become liable to forfeiture under the customs and excise Acts—
>
> > (a) any ship, aircraft, vehicle, animal, container … or other thing whatsoever which has been used for the carriage, handling, deposit or concealment of the thing so liable to forfeiture, either at a time when it was so liable or for the purposes of the commission of the offence for which it later became so liable; and (b) any other thing mixed, packed or found with the thing so liable, shall also be liable to forfeiture."

29. Excise goods liable to duty on which such duty has not been paid are liable to forfeiture by operation of regulation 88 of the Excise Goods (Holding, Movement and Duty Point) Regulations 2010. Accordingly, by reason of section 141(1), above, a vehicle used for the carriage of such goods is also liable to forfeiture. A procedure for condemnation of a thing liable to forfeiture is provided by Schedule 3 to CEMA.

30. Section 152(b) CEMA provides that the Commissioners

> "may, as they see fit ... restore, subject to such conditions (if any) as they think proper, any thing forfeited or seized under the customs and excise Acts".

31. On presentation of a request from the person whose property has been seized, the Commissioners can be required by s14(2) Finance Act 1994 to review "any decision under s152(b) of the 1979 Act as to whether or not anything forfeited or seized under the customs and excise Acts is to be restored to any person or as to the conditions subject to which any such thing is so restored". On a review, the Commissioners may, pursuant to s15(1) Finance Act 1994 "confirm the decision" or "withdraw or vary the decision and take such further steps (if any) in consequence of the withdrawal or variation as they may consider appropriate".

32. As was confirmed by the case of *HMRC v Jones and Jones* [2011] EWCA Civ 824, this tribunal cannot reopen the question of whether or not the goods or the vehicle were legally

seized. Such a challenge can only be made through the Magistrates' Courts and any such challenge must be made within one month of the seizure. If no such challenge has been made within that time limit the goods and vehicle are deemed to have been seized lawfully.

33. The question of whether or not the vehicle should be restored is therefore one subject to the discretion of Border Force.

34. The only remedies available through this tribunal are set out in s16 Finance Act 1994, which provides, as far as is relevant, as follows:

> "**Appeals to a tribunal**
>
> (1) Subject to the following provisions of this section, an appeal shall lie to an appeal tribunal with respect to any of the following decisions, that is to say—
>
> (a) any decision by the Commissioners on a review under section 15 above (including a deemed confirmation under subsection (2) of that section); and
>
> (b) any decision by the Commissioners on such review of a decision to which section 14 above applies as the Commissioners have agreed to undertake in consequence of a request made after the end of the period mentioned in section 14(3) above.
>
> (2) An appeal under this section shall not be entertained unless the appellant is the person who required the review in question.
>
> (3) …
>
> (3A) …
>
> (4) In relation to any decision as to an ancillary matter, or any decision on the review of such a decision, the powers of an appeal tribunal on an appeal under this section shall be confined to a power, where the tribunal are satisfied that the Commissioners or other person making that decision could not reasonably have arrived at it, to do one or more of the following, that is to say—
>
> (a) to direct that the decision, so far as it remains in force, is to cease to have effect from such time as the tribunal may direct;
>
> (b) to require the Commissioners to conduct, in accordance with the directions of the tribunal, a further review of the original decision; and
>
> (c) in the case of a decision which has already been acted on or taken effect and cannot be remedied by a further review, to declare the decision to have been unreasonable and to give directions to the Commissioners as to the steps to be taken for securing that repetitions of the unreasonableness do not occur when comparable circumstances arise in future.
>
> (5) In relation to other decisions, the powers of an appeal tribunal on an appeal under this section shall also include power to quash or vary any decision and power to substitute their own decision for any decision quashed on appeal."

35. Therefore, in accordance with the provisions of s16(4) Finance Act 1994, as set out above, this tribunal has no power to order the restoration of the vehicle as such. The only authority which this tribunal has in such cases is to direct that Border Force carry out a further review, and it can only do that if it finds that the decision of the reviewing officer is flawed.

36. This is generally taken to mean that we can only interfere with it if we believe that the reviewing officer took into account irrelevant information, ignored relevant information, or

reached a conclusion that no reasonable officer, if properly directed, could have reached on the facts before them.

37. Importantly, it is not relevant whether or not we would have come to the same conclusions as the reviewing officer. We can only consider whether or not his decision was reasonable.

38. In addition, it is well established that we can only consider the facts as they were at the time the decision was taken. We cannot take into account subsequent events. We can consider facts which existed at the time the decision was taken but which were ignored by the reviewing officer, either at the time of the decision or at the time of the subsequent review, but we cannot take into account subsequent events.

**BORDER FORCE POLICY ON RESTORATION**

39. When taking a decision as to whether or not a vehicle carrying seized goods should be restored to the owner Border Force officers are guided by, but not bound by, their internal policy. In this case Border Force helpfully provided a copy of that policy in so far as is relevant in this appeal, which is set out below.

> "A vehicle adapted for the purposes of concealing goods will not normally be restored.
>
> Otherwise the policy depends on who is responsible for the smuggling attempt with three possibilities:
>
> A. Neither the driver nor the operator are responsible;
>
> B. The driver but not the operator is responsible;
>
> C. The operator is responsible.
>
> A: If the operator provides evidence satisfying the BF that neither the operator nor the driver was responsible for or complicit in the smuggling attempt then:
>
> (1) If the operator also provides evidence satisfying the BF that both the operator and the driver carried out basic reasonable checks (including conforming with the CMR Convention) to confirm the legitimacy of the load and to detect any illicit load the vehicle will normally be restored free of charge, otherwise;
>
> (2) a) on the first occasion the vehicle will normally be restored for 20% of the revenue involved in the smuggling attempt (or 100% of the trade value of the vehicle if lower).
>
> b) on a second or subsequent occasion (within 6 months) the vehicle will not normally be restored.
>
> B: If the operator provides evidence satisfying the BF that the driver but not the operator is responsible for or complicit in the smuggling attempt then:
>
> (1) If the operator also provides evidence satisfying the BF that the operator took reasonable steps to prevent drivers smuggling then the vehicle will normally be restored free of charge unless,
>
> a) the same driver is involved (working for the same operator) on a second or subsequent occasion in which case the vehicle will normally be restored for 100% of the revenue involved in the smuggling attempt (or for the trade value of the vehicle if lower), except that

b) if the second or subsequent occasion occurs within 6 months of the first the vehicle will not normally be restored.

(2) Otherwise,

a) on the first occasion the vehicle will normally be restored for 100% of the revenue involved in the smuggling attempt (or for the trade value of the vehicle if lower),

b) on a second or subsequent occasion the vehicle will not normally be restored.

C: Where the operator has failed to provide evidence to satisfy the BF that the operator was neither responsible or complicit in the smuggling attempt then

(1) If the revenue involved is less than £50,000 and it is the first occasion, the vehicle will be restored for 100% of the revenue involved (or the trade value of the vehicle if less.

(2) If the revenue involved is £50,000 or more or it is seized on a second of subsequent occasion within 12 months, the vehicle will not normally be restored."

**THE REVIEW LETTER**

40. The reasons for UKBF's decision not to restore the vehicle are set out in full in the letter of 20 April 2019.

41. Importantly, the review letter and UKBF's Statement of Case place heavy reliance on the case of *Jacek Szymanski v UKBF* [2019] UKUT 343 (TCC), and in particular the comments of Judge Judith Powell in the FTT decision in this case, which was upheld by the Upper Tribunal in a decision released on 12 November 2019, after the letter of 20 April 2019.

42. The letter states that because Ms Klevienes was reckless in her approach to making checks and ignoring warning signs then she was complicit in the smuggling attempt and that Ms Klevienes's actions were "wholly compatible" with the decision in *Szymanski*.

43. Having concluded that Ms Klevienes was complicit in the smuggling attempt this led Officer Brenton to apply para C of the UKBF policy, as set out above. The policy states that in cases where the operator is responsible for or complicit in the smuggling attempt and where the revenue involved is greater than £50,000 the vehicle will not normally be restored.

44. We address the application of the decision in *Szymanski* further below.

**DISCUSSION**

45. Ms Klevienes's grounds of appeal are set out in the Notice of Appeal as follows:

(1) The driver but not the operator was responsible for the smuggling attempt.

(2) The operator took reasonable steps to prevent drivers smuggling.

(3) The CMR did show a consignee as "Hrono Jager Freight" in Purfleet. There is a company called Jager Freight Ltd at that address and open source checks confirm that Jager Freight Ltd is a freight forwarding company.

(4) The driver was responsible for or complicit in the smuggling attempt.

(5) Turning a "blind eye" by the operator is not the same as complicit or responsible for the smuggling attempt.

(6) Recklessness by the operator is not the same as complicit or responsible for the smuggling attempt.

(7) Non-restoration will cause exceptional hardship for the Appellant.

46. At the outset of his submissions Dr van Dellen withdrew ground (5) above on the basis of the decision in *Szymanski*.

47. Dr van Dellen also acknowledged that his client might be considered to have been naïve and gullible, and that she failed to carry out basic checks, but he argued that being complicit is a long way from naïve and gullible. She had fully accepted that she had failed to make reasonable checks but this had been borne out of her lack of experience. She did not see the warning signs and then decide to "turn a blind eye" to those warning signs. She simply did not see the warning signs in the first place.

48. In *Szymanski*, at the FTT, at paras [69] and [70], Judge Judith Powell said:

> "69. Looking now at the review decision itself the review officer decided that the Appellant was at least complicit in the smuggling. Because of this he applied section C of the policy which pointed towards a decision not to restore because of the February 2016 seizure. In giving oral evidence to the tribunal he said that a person could be complicit even if he simply turns a blind eye to what is going on. We accept this. The ordinary definition of "complicit" in the Oxford dictionary is "involved with others in an activity that is unlawful or morally wrong". We consider that a person can be involved in an activity if he agrees to do something without question in circumstances where a reasonable person would make further enquiries to ascertain whether what he was told was credible.
>
> 70. In reaching his conclusion that the Appellant turned a blind eye to what was going on when he should have made further enquiries Mr Brenton took the following facts into account. First, the inadequacy of background checks on Mr Deka and whether he was carrying out a bona fide business including a failure to verify UAB Kilita and his failure to check the load more carefully when he arrived in Frankfurt, secondly his "disingenuous" assertion he was unaware of the true nature of the load given that he told the officers he had been told the load was snuff and finally the Appellant's differing accounts of the delivery arrangements which lacked credibility. We considered whether he had overlooked any relevant facts or taken into account any irrelevant ones in reaching this conclusion."

49. In response, Dr van Dellen referred us to the case of *Grzegorz Sczcepaniak T/A Phu Greg-Car v The Director of Border Revenue* [2019] UKUT 0295 (TCC), the decision in which was issued on 1 October 2019, and in particular to para [23] of that decision, where the Upper Tribunal said:

> "23. It is not straightforward to see how the FTT's observations on "reasonable checks" in [98], [99] and [100(1)] fitted with Officer Hodge's review decision. In deciding that paragraph C of the policy applied, Officer Hodge was not simply saying that the Appellant had failed to complete "reasonable checks". Rather, the conclusion was much tougher: namely that the Appellant was responsible for, or complicit in, the smuggling attempt. Mr Newbold invited us to read [100(1)] as a finding that the Appellant's failure to perform "basic reasonable checks" had led the FTT to conclude that the Appellant was complicit in the smuggling (because, an operator knowing that a load contains smuggled goods would have an obvious incentive to perform no checks). We do not, however, read [100(1)] in that way. **A failure to perform reasonable checks does not, of itself, demonstrate complicity in a smuggling attempt:**

**conceptually such a failure could be explained by incompetence, inexperience, ignorance, laziness, lack of time or many other factors**. If the FTT had wanted to say that the Appellant's failure to perform checks supported a conclusion that it was responsible for, or complicit in, the smuggling attempt, it would have needed to explain why it had reached that conclusion."

50. We are therefore faced with two potentially conflicting authorities on this point. In *Szymanski* it was held that the failure to carry out basic checks, or more particularly to ask further questions when things did not look right, meant that the appellant could be considered to have been complicit in the smuggling attempt. Whereas in *Phu Greg-Car* we have a very clear statement from the Upper Tribunal that a failure to carry out reasonable checks does not of itself demonstrate complicity in a smuggling attempt, indeed the Upper Tribunal goes on to suggest that there may be many other reasons why basic checks were not carried out, such as incompetence, inexperience, ignorance, laziness, lack of time or many other factors.

51. It is however important to consider the very different fact patterns of *Szymanski* and the current case. In *Szymanski* the driver **was** the operator. Mr Szymanski was a sole trader who was **both driver and operator**. He had personally helped to load the illicit goods onto his lorry and the Tribunal, and the reviewing officer, clearly did not believe Mr Szymanski when he said he had no idea what was in the load. In such circumstances it is not difficult to come to the conclusion that Mr Szymanski was indeed complicit in the smuggling attempt, especially as he had been intercepted and goods seized not long previously. Indeed it seems highly unlikely that he simply turned a blind eye. It seems much more likely that he was genuinely involved with the smuggling attempt.

52. This is in complete contrast to Ms Klevienes. She was not the driver and had no part in loading the goods and no reason to be concerned by the existence of warning signs such as the pick-up in a car park or a lay-by and the single name and telephone number to arrange the delivery. In her evidence she stated, in her **unchallenged** witness statement, that she was not complicit in or responsible for the smuggling attempt. She was totally honest in saying that she simply did not see any of these warning signs, which might have been blindingly obvious to Officer Brenton, or indeed to the members of this Tribunal. She was naïve and inexperienced in such matters but she was quite clear that she was not complicit in or responsible for the smuggling attempt, and her evidence on this point was unchallenged.

53. In his review letter, Officer Brenton states that he considers that the circumstances of this appeal are "wholly compatible" with the circumstances in *Szymanski*. We cannot agree with this assessment. The underlying facts of the two cases are totally different and we do not consider that it was reasonable for him to place such heavy reliance on *Szymanski* for his conclusions in the current case.

54. In our view the expression to "turn a blind eye" means that a person deliberately chooses not to enquire or not to look too closely at something which they have seen and which they are fully aware might be suspicious. In circumstances where the person in question is fully aware of the warning signs and decides to ignore them or to look the other way then we can understand how the reviewing officer in the case of Mr Szymanski, who was also Officer Brenton, and the Tribunal in that case, came to the conclusion that Mr Szymanski was complicit in the smuggling attempt.

55. In this case however we cannot agree that Ms Klevienes's failure to make reasonable checks can be regarded as being the same as her being complicit in the smuggling attempt. Dr van Dellen explained Ms Klevienes's failure to make reasonable checks as being the result of her naivety and gullibility. She simply did not see the warning signs. This is very

different from Mr Szymanski. These are two very different circumstances and, on the facts of this case, we prefer the approach taken by the Upper Tribunal in *Phu Greg-Car*.

56. Ms Klevienes has also appealed on the grounds of exceptional hardship.

57. It is clear that Ms Klevienes's business in not financially healthy. She has debts of approximately EUR 100,000 with cash resources of only EUR 5,000. In addition she made a loss of EUR 38,000 in 2019 and estimates a loss of EUR 30,000 for 2020, but she also honestly admits that not all of the losses can be attributed to the seizure of her vehicle, and that other factors such as Covid may be partially to blame.

58. We note however that Ms Klevienes has managed to keep her business going for almost two years following the seizure. This may have been very difficult for her but it does not look to us like **exceptional** hardship.

59. Dr van Dellen argued that Ms Klevienes's business was clearly not in the league of a large business which might be able to absorb the loss of a vehicle. Nor was it in the position of a sole trader whose business would have been destroyed by a seizure. It was instead in the position of a small business which was surviving, but only just.

60. However, as Officer Brenton pointed out in his review letter, one must expect considerable inconvenience if ones vehicle is seized. Hardship is an inevitable consequence of having a vehicle seized but it has to be exceptional hardship for UKBF, or this Tribunal, to take a more lenient approach. We do not consider that Ms Klevienes has suffered exceptional hardship in this case.

## DECISION

61. As set out above, in accordance with the provisions of s16(4) Finance Act 1994, this Tribunal has no power to order the restoration of the vehicle as such. The only authority which this Tribunal has in such cases is to direct that Border Force carry out a further review, and it can only do that if it finds that the decision of the reviewing officer is flawed.

62. This is generally taken to mean that we can only interfere with it if we believe that the reviewing officer took into account irrelevant information, ignored relevant information, or reached a conclusion that no reasonable officer, if properly directed, could have reached on the facts before them. Importantly, it is not relevant whether or not we would have come to the same conclusions as the reviewing officer. We can only consider whether or not his decision was reasonable.

63. In this case, we find that Officer Brenton did take into account irrelevant or incorrect information by relying so heavily and inappropriately on the decision in *Szymanski* and that he could not therefore reasonably have arrived at the decision which he did.

64. We therefore DIRECT, in accordance with s16(4)(a) Finance Act 1994, that the decision, so far as it remains in force, is to cease to have effect from the date of this decision.

65. We further DIRECT, in accordance with the provisions of s16(4)(b) Finance Act 1994, that Border Force should conduct a further review of the original decision.

## RIGHT TO APPLY FOR PERMISSION TO APPEAL

66. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to "Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)" which accompanies and forms part of this decision notice.

**PHILIP GILLETT**
**TRIBUNAL JUDGE**

**Release date: 21 December 2020**