



[2021] UKFTT 255 (TC)

TC08201

Excise duty – HMRC v Jones and HMRC v Race applied – goods deemed to be for commercial use – appeal against assessment dismissed – penalties for deliberate behaviour – application of HMRC v Tooth – not deliberate wrongdoing - Appellant had the goods for own use - reasonable excuse - appeal against penalty allowed

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

TC/2019/06068

BETWEEN

MR GHEORGHITA PUIU

Appellant

-and-

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

Respondents

TRIBUNAL: JUDGE TRACEY BOWLER

The hearing took place on 24 March 2021. With the consent of the parties, the form of the hearing was V (video) using the Tribunal video platform. A face to face hearing was not held because of the circumstances of the pandemic.

Prior notice of the hearing had been published on the gov.uk website, with information about how representatives of the media or members of the public could apply to join the hearing remotely in order to observe the proceedings. As such, the hearing was held in public.

A summary decision was issued on 29 March 2021. HMRC have subsequently requested full findings and reasons which are set out in this decision.

Mr Puiu was a litigant in person.

Mr Gordon-Saker, counsel, instructed by the General Counsel and Solicitor to HM Revenue and Customs for the Respondents.

DECISION

INTRODUCTION

1. The Appellant, Mr Puiu, was stopped at Luton airport by Border Force and cigarettes found in his luggage were seized by them. He was later issued with an excise duty assessment under s 12(1A) of the Finance Act 1994 (“FA 1994”) and a penalty notice issued under Schedule 41 Finance Act 2008 (“Schedule 41”) imposing penalties for deliberate wrongdoing, both of which he appealed.

2. For the reasons explained in this decision I have decided that the appeal against the assessment must be dismissed, but the appeal against the penalties should be allowed. Mr Puiu’s behaviour was not “deliberate” applying the approach set out by the Supreme Court in *Commissioner for Her Majesty’s Revenue and Customs v Tooth* [2021] UKSC 17 and he had a reasonable excuse.

BACKGROUND

3. Mr Puiu was stopped at Luton airport on 6 October 2018. 9600 cigarettes were seized from his luggage.

4. On 10 July 2019 Officer Littleton issued a pre-assessment letter and penalty letter.

5. Mr Puiu’s then representatives wrote to HMRC on 17 July 2019 asserting that Mr Puiu was misled, had not been provided with the necessary documents and his basic rights were breached.

6. On 30 July 2019 HMRC issued an excise duty assessment for £2719 and a notice of penalty assessment for £1046.

7. Mr Puiu’s representatives wrote on 22 August 2019 and said that they were acting pro bono for Mr Puiu, who did not have funds to pay the assessment and penalties. It was maintained that customs Notice 12A had not been served on Mr Puiu. He had signed a document at Luton airport without the benefit of a lawyer or interpreter. The cigarettes had been brought into the UK for the personal use of Mr Puiu and immediate family members.

8. Although HMRC acknowledged the letter of 22 August 2019, it did not result in any amendment of the assessment or penalties, or further correspondence.

9. Mr Puiu submitted his notice of appeal on 12 September 2019.

GROUND OF APPEAL

10. Mr Puiu’s grounds of appeal can be summarised as follows:

- (1) Border Force acted in breach of the agreement reached with him at Luton airport. They took advantage of his poor English;
- (2) The cigarettes were for personal use only and he had paid duty on buying them in Romania;
- (3) He cannot afford to pay the duty and penalties; and
- (4) Notice 12A was never provided to him.

BURDEN OF PROOF

11. The burden of proof is on HMRC to establish that the notice of assessment and penalty notices were validly issued. If they discharge that burden, Mr Puiu must then show that the assessment and/or penalty should be cancelled, or the amount of the penalty varied. The standard of proof is the balance of probabilities.

THE EVIDENCE

12. The evidence consists of the hearing bundle and the oral evidence of Mr Puiu and Officer Connor at the hearing. Mr Puiu's evidence was provided through an interpreter.

13. I found Mr Puiu to be a credible witness who provided straightforward and consistent answers to questions posed in cross-examination.

14. I also found Officer Connor to be a credible witness.

15. I have made the findings of fact on the basis of the documentary evidence and the evidence of Mr Puiu and Officer Connor. Their evidence was not contradictory or inconsistent. Officer Connor has simply restated the order of events and the interview recorded in his notebook. Mr Puiu has explained his understanding of those events and the questions and statements made when he was stopped by Officer Connor.

HMRC's case

16. Mr Gordon-Saker referred to his skeleton argument in which he submits:

(1) No challenge was made to the seizure of the goods, and as such they were deemed to have been condemned as forfeited under Schedule 3, Paragraph 5 of the Customs and Excise Management Act 1979;

(2) Following *HMRC v Jones* [2011] EWCA (Civ) 824, a challenge cannot be raised in relation to the forfeiture of the goods in these proceedings; the matter is res judicata as a result of the deemed condemnation;

(3) Mr Puiu intentionally sought to evade duty when importing the cigarettes, so the behaviour was classed as "deliberate."

17. At the hearing Mr Gordon-Saker submitted further that even if Mr Puiu had brought the cigarettes into the UK for personal use, that has no bearing on the application of the penalties under Schedule 41 because the action must be treated as having been deliberate by virtue of the deemed commercial purpose resulting from the lack of challenge to the seizure. As the wrongdoing was deliberate, the provisions dealing with reasonable excuse do not apply.

FINDINGS OF FACT

18. Mr Puiu travelled back to the UK from Romania on 6 October 2018 with 9600 cigarettes in his luggage.

19. When passing through Luton airport he was stopped by Border Force officials, including Officer Connor.

20. Mr Puiu is not fluent in English. He was not offered an interpreter. Officer Connor explained that this was because Mr Puiu did not indicate that he did not understand the questions put to him.

21. Mr Puiu was asked if he had any cigarettes with, or on, him. I accept Mr Puiu's evidence that he understood this to mean whether he had any in the bag he was holding. He answered truthfully and said that he had about 200 packets in that bag. Officer Connor found loose cigarettes equivalent to 230 packets. Mr Puiu explained that the cigarettes were loose in order to fit them into his bag.

22. Officer Connor then asked to search Mr Puiu's other bag and found a further 500 packets of cigarettes which were all in their cartons.

23. Officer Connor told Mr Puiu that he was free to leave, but could choose to remain for an interview.

24. Officer Connor's notebook says that Mr Puiu was read the commerciality statement. That statement says broadly that goods may be held without payment of duty providing they have been acquired and are held by the person for their own use. Officer Connor would have proceeded to say that he suspected that Mr Puiu may be holding goods for a commercial purpose and not for his own use; and that Officer Connor intended to ask Mr Puiu some questions to establish whether the goods were held for a commercial purpose. The statement then explains that if no satisfactory explanation is forthcoming, or if Mr Puiu chose not to stay for questioning, it may lead Officer Connor to conclude that the goods were not held for Mr Puiu's own use, but held for a commercial purpose, and his goods may be seized as liable to forfeiture.

25. Although Mr Puiu said he understood when asked by Officer Connor, his next questions to Officer Connor show that in fact he had little understanding of what he had been told.

26. Officer Connor's notebook shows that Mr Puiu was concerned about the implications for him and his family. He was told that if the goods were seized the result would be the same whether he stayed for the interview or left. Mr Puiu was not asked at any point why he had brought the cigarettes into the UK.

27. Mr Puiu understood that if he left the cigarettes at the airport, no further action would be taken. The cigarettes were seized. Officer Connor's notebook says that Mr Puiu was given BOR156, BOR162 and Notices 1 and 12A. Mr Puiu has maintained that he did not receive Notice 12A.

28. Document BOR162 is titled "Warning Letter about Seized Goods". It was not signed or dated by Officer Connor and given this oversight and Mr Puiu's consistent and credible evidence I have found on balance that Notice 12A was not issued to Mr Puiu. Notice 12A is the document which explains the procedure to challenge a seizure.

29. Mr Puiu left without an interview taking place. He was not told about his right to challenge the forfeiture. He understood that no further action would be taken and that when he left the cigarettes at the airport that was the end of the matter.

30. Mr Puiu did not challenge the seizure of the cigarettes in the Magistrate's Court. He was not aware of the procedure to do so as he had not been given the explanatory notice at the airport, or told about his rights to do so orally.

31. Based on Mr Puiu's evidence at the hearing I find that:

(1) He brought the cigarettes to the UK for personal consumption by him and as gifts for his wife, his brother-in-law and his brother-in-law's wife. He provided consistent evidence regarding the number of cigarettes which each of them smoked and the particular brands they smoked as well as the expected length of time his purchases would last. Mr Puiu did not bring the cigarettes to the UK in order to sell them;

(2) He believed that, as the cigarettes were for him and his immediate family, there was no limit on what he could bring back from Romania.

THE LAW

The Statutory Framework

32. Excise duty is charged on tobacco products by the Tobacco Products Duty Act 1979. Regulation 14 of the Tobacco Products Regulations 2001 provides that the duty is due at the excise duty point.

33. Where goods have been released for consumption in another Member State (as in this case), the Excise Goods (Holding Movement and Duty Point) Regulations 2010 (the "HMDP Regulations 2010") provide, by regulation 13:

- (1) if the goods are held for a commercial purpose in the UK, then there is an excise duty point at the first point when the goods are so held (regulation 13(1));
- (2) excise goods will be held for a commercial purpose if they are held by a private individual except where the excise goods are for P's "own use";
- (3) in determining whether goods are for own use, regard must be taken of various things, including whether the quantities exceed, in the case of cigarettes, 800 cigarettes; and
- (4) the person holding the goods at the excise point is liable to pay the duty.

34. Commercial importation is possible, but there are a number of requirements imposed in particular under regulation 69 of the HMDP Regulations 2010.

35. Regulation 19(5) provides that a failure to comply with regulation 69 will constitute a contravention.

36. Regulation 88 provides that where there is a contravention of the regulations in relation to excise goods in respect of which duty was due but not paid, those goods are liable to forfeiture.

37. Section 139 of Customs and Excise Management Act 1979 ("CEMA 1979") provides that anything liable to forfeiture may be seized. Schedule 3 to CEMA 1979 provides (so far as relevant):

(1) The Commissioners shall, except as provided in sub-paragraph (2) below, give notice of the seizure of anything as liable to forfeiture and of the grounds therefor to any person who to their knowledge was at the time of the seizure the owner or one of the owners thereof.

(2) Notice need not be given under this paragraph if the seizure was made in the presence of—

(a) the person whose offence or suspected offence occasioned the seizure; or

(b) the owner or any of the owners of the thing seized or any servant or agent of his; or

(ba) a person who has (or appears to have) possession or control of the thing being seized;...

...(3) Any person claiming that anything seized as liable to forfeiture is not so liable shall, within one month of the date of the notice or seizure...give notice of his claim in writing to the Commissioners...

...

(5) If on the expiration of the relevant period under paragraph 3 above for the giving of notice of claim in respect of anything no such notice has been given to the Commissioners...the thing in question shall be deemed to have been duly condemned as forfeited."

38. Under s12(1A) Finance Act 1994 ("FA 1994"), where a person has become liable to excise duty and the Commissioners can ascertain the amount due, the Commissioners may assess the amount of duty due.

39. Section 12(4) of FA 1994 provides so far as relevant:

“An assessment to the amount of any duty of excise due from any person shall not be made under this section at any time after whichever is the earlier of the following times, that is to say –

- (a) subject to subsection (5) below, the end of the period of 4 years beginning with the time when his liability to the duty arose; and
- (b) the end of the period of one year beginning with the day on which evidence of facts, sufficient in the opinion of the Commissioners to justify the making of the assessment, comes to their knowledge”

40. Paragraph 4 of Schedule 41 provides that a penalty is payable by a person who acquires or is concerned in carrying, removing, depositing, keeping or otherwise dealing with excise goods on which duty is outstanding and has not been deferred.

41. Paragraph 5(4) of Schedule 41 sets out the “degrees of culpability” as follows:

“P’s acquiring possession of, or being concerned in dealing with, goods on which a payment of duty is outstanding and has not been deferred or (as the case may be) chargeable soft drinks in respect of which a payment of soft drinks industry levy is due and payable and has not been paid is –

- (a) 'deliberate and concealed' if it is done deliberately and P makes arrangements to conceal it, and
- (b) 'deliberate but not concealed' if it is done deliberately but P does not make arrangements to conceal it.”

42. Paragraph 14 of Schedule 41 provides that “if HMRC think right because of special circumstances, they may reduce a penalty.” Inability to pay cannot amount to a special circumstance.

43. Paragraph 20 of Schedule 41 provides that liability to a penalty does not arise if there was a reasonable excuse for the act or failure. This provision only applies to acts or failures which are not deliberate.

44. Paragraph 17(1) of Schedule 41 provides for an appeal to the FTT against a decision that a penalty is payable. Paragraph 17(2) provides for an appeal to the FTT against the amount of the penalty. The FTT may affirm HMRC’s decision or make any other decision which HMRC was entitled to make. However, the FTT can only substitute its decision for that made by HMRC regarding special circumstances where HMRC’s decision was “flawed” applying judicial review principles.

The case law principles

45. In *HMRC v Jones* Mummery LJ in the Court of Appeal stated (at para 71) :

...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....

... 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.”

46. *Jones* was a restoration case but in *HMRC v Race* [2014] UKUT 0331 (TC), Warren J confirmed that the same principles apply in appeals against assessments and stated:

“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..., they were not held by the taxpayers for their own personal use in a way that 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.

33. ...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*... 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 [that the goods were in fact for own use] is no different from that raised by Mr and Mrs Jones.

47. The decisions therefore made clear that if a person did not take action within the one month period to challenge a seizure, the goods were deemed forfeited and they must be treated as having been brought into the UK other than for personal use.

48. *Race* concerned an application by HMRC to strike out an appeal of an assessment. Although there was also an appealed penalty notice, HMRC had not sought to strike that out. Therefore Warren J’s comments about the penalty notice provisions were strictly obiter dicta. They were also made in the context of addressing the First-tier judge’s reasons for refusing the strike-out of the assessment appeal rather than addressing the position of the penalty notice itself. I therefore take into account his statement at para 39 of the decision in that context where he said that:

“the First-tier Tribunal could no more re-determine, in the appeal against the Penalty Assessment, a factual issue which was a necessary consequence of the statutory deeming provision than it could re-determine a factual issue decided by a court in condemnation proceedings.”

49. However, he also noted at paragraph 40 that:

“...even if the issue whether duty was payable may not be reopened there are other aspects of behaviour or conduct or circumstance raised by the penalty provisions which the First-tier Tribunal will be required to consider in respect of the appeal against the Penalty Assessment.”

50. In *HMRC v Susan Jacobson* [2018] UKUT 0018 TCC, the Upper Tribunal stated (at paragraph 24):

“We respectfully agree with Warren J in *Race* that the reasoning and analysis in *Jones* applies to an appeal against a penalty in exactly the same way as it applies to an appeal against an assessment for excise duty. The deemed effect of Ms Jacobson's failure to contest the seizure of the HRT was that it was duly condemned as forfeited as, in the terms of regulation 88 of the 2010 regulations, goods liable to excise duty which had not been paid in contravention of the Regulations.”

51. As stated, that conclusion must be read in the context of the comments made in *Race*.

52. In particular, none of the cases considered above addressed the extent to which the deeming provisions in CEMA 1979 impact on the type of penalty which can arise and the extent to which the deeming effect of paragraph 5 of Schedule 3 colours the approach to be taken in deciding whether a person’s failure to comply with customs’ obligations was “deliberate”.

53. In my opinion, none of the decisions led to the conclusion that, as Mr Gordon-Saker submitted, Mr Puiu's behaviour must be treated as having been "deliberate" for the penalty rules simply as a result of the deeming under CEMA 1979. I recognise, however, that at the time of the hearing there was a stronger basis for Mr Gordon-Saker to maintain his argument given the judgement of the Court of Appeal in *Commissioners for Her Majesty's Revenue and Customs v Tooth* [2019] EWCA Civ 826.

54. Moreover, I am satisfied that the Supreme Court's decision in *Her Majesty's Revenue and Customs v Tooth* [2021] UKSC 17 should be applied by me in considering whether Mr Puiu's behaviour was "deliberate".

55. At paragraph 43 the Supreme Court said:

"Deliberate is an adjective which attaches a requirement of intentionality to the whole of that which it describes, namely "inaccuracy".

56. I consider that there is no reason to apply a different approach to the interpretation of "deliberate" in Schedule 41 where it is the adjective applied to a failure to comply with obligations. I am satisfied that given the Supreme Court's approach in *Tooth*, the deeming provisions in CEMA 1979 should not be viewed as effectively deeming what a person's intention is.

57. The Supreme Court in *Tooth* considered it relevant that in the context of inaccuracies Parliament must be considered to have regarded a deliberate inaccuracy as more blameworthy, given what their Lordships described as the substantial shortening of the exposure period for carelessness (at paragraph 46). Similarly, I take into account the fact that Parliament has drawn a distinction in Schedule 41 between different levels of culpability. The reasonable excuse provisions only apply where the culpability is not deliberate. To deem every person who is deemed to have brought goods into the country for commercial purposes also to have done so intentionally undermines the distinctions drawn by Parliament.

58. Their Lordships noted that a deeming provision in a definition section of a statute commonly does give rise to a different meaning of the operative provision than the one which might have been arrived at by reading it on its own (see paragraph 38); but note that the provisions in Schedule 41 do not provide for a different meaning of "deliberate" and do not require that term to be interpreted by reference to the deeming provisions of CEMA 1979.

59. I therefore consider that a person's intention must be determined having regard to all of the circumstances and the evidence provided in order to determine whether their failure to comply with obligations was "deliberate".

60. If, but only if, the failure was not deliberate it is necessary to consider whether the person had a reasonable excuse.

61. In *Christine Perrin v HMRC* [2018] UKUT 0156 (TCC), the Upper Tribunal stated:

"71. In deciding whether the excuse put forward is, viewed objectively, sufficient to amount to a reasonable excuse, the tribunal should bear in mind all relevant circumstances; because the issue is whether the particular taxpayer has a reasonable excuse, the experience, knowledge and other attributes of the particular taxpayer should be taken into account, as well as the situation in which that taxpayer was at the relevant time or times (in accordance with the decisions in *The Clean Car Co* and *Coales*).

72. Where the facts upon which the taxpayer relies include assertions as to some individual's state of mind (e.g. "I thought I had filed the required return", or "I did not believe it was necessary to file a return in these circumstances"), the question of whether that state of mind actually existed must be decided by the FTT just as much as any other facts relied on. In doing so, the FTT, as the

primary fact-finding tribunal, is entitled to make an assessment of the credibility of the relevant witness using all the usual tools available to it...

73. Once it has made its findings of all the relevant facts, then the FTT must assess whether those facts (including, where relevant, the state of mind of any relevant witness) are sufficient to amount to a reasonable excuse, judged objectively.

74. Where a taxpayer's belief is in issue, it is often put forward as either the sole or main fact which is being relied on – e.g. “I did not think it was necessary to file a return”, or “I genuinely and honestly believed that I had submitted a return”. In such cases, the FTT may accept that the taxpayer did indeed genuinely and honestly hold the belief that he/she asserts; however that fact on its own is not enough. The FTT must still reach a decision as to whether that belief, in all the circumstances, was enough to amount to a reasonable excuse. So a taxpayer who was well used to filing annual self-assessment returns but was told by a friend one year in the pub that the annual filing requirement had been abolished might persuade a tribunal that he honestly and genuinely believed he was not required to file a return, but he would be unlikely to persuade it that the belief was objectively a reasonable one which could give rise to a reasonable excuse.”

DISCUSSION

Impact of not issuing Notice 12A

62. Mr Puiu and his previous representatives have placed great weight on the fact that he was not given Notice 12A which would have told him about his ability to challenge the seizure. However, the provisions of CEMA 1979 apply even where a notice of seizure is not issued if the seizure is in the presence of the person suspected of the offence or who owns the seized goods. It is, to say the least, unfortunate that Mr Puiu was not advised of his rights either by a Notice 12A or by being given a description of them orally at the airport, but that does not alter the position in law under CEMA 1979.

The excise duty assessment

63. In view of the deeming provisions contained in CEMA 1979 and the authorities cited above, it is not open to me to make a finding that the cigarettes were for personal use (despite finding the Appellant to be honest and credible, and accepting his account) and therefore to find that there was no UK duty point. This is so despite the fact that Mr Puiu did not know that he could challenge the seizure and was not asked at the airport about whether the cigarettes were for personal use.

The penalty notice

64. The notice has been validly issued by HMRC within the statutory time limits.

Was Mr Puiu's failure to comply with the customs obligations deliberate?

65. The application of CEMA 1979 means that I must find that Mr Puiu failed to comply with the customs obligations because he is treated as having brought the goods to the UK other than for personal use.

66. However, given my acceptance of his account, I am satisfied that Mr Puiu did not intend to breach customs rules. His intention was to bring the cigarettes to the UK for his own use and as gifts for his wife, brother-in-law and his brother-in-law's wife. He had no intention of selling the cigarettes or putting them to any other commercial purpose.

67. I do not consider that the fact that Mr Puiu answered Officer Connor's question about what cigarettes he had with, or on, him by referring only to the holdall in his hand alters my conclusions. In my experience a person whose first language is not English will often answer

a question put to them in English very literally. The only cigarettes “on him” when he was asked were the ones in the holdall in his hands. The other cigarettes were in a separate bag.

68. Officer Connor noted that the cigarettes had been taken out of their cartons and were loose in the holdall. Mr Puiu said that this was to fit them into the bag more easily. That explanation has not been challenged by Officer Connor or HMRC. Although I have no expertise in the selling of cigarettes, it would appear to me, in the absence of any other evidence from Officer Connor or HMRC, that removing cigarettes from their cartons would make them more difficult to sell.

69. Therefore for all these reasons I conclude that Mr Puiu did not intend to fail to comply with his customs obligations. Consequently, applying the law as set out by me earlier, I also conclude that he did not deliberately fail to comply with the customs obligations.

Did Mr Puiu have a reasonable excuse?

70. As I have decided that the failure to comply with the customs obligations was not intentional I must consider whether the reasonable excuse provisions contained in paragraph 42 of Schedule 41.

71. As explained, I am satisfied that Mr Puiu’s belief that the cigarettes were for own use and not for a commercial purpose and that he did not need to declare or pay duty on such goods was genuine.

72. I am satisfied that Mr Puiu’s belief that the cigarettes were for own use and not a commercial purpose was a reasonable one when viewed objectively. Mr Puiu understood that there was no limit on the amount of cigarettes that he could bring to the UK provided that the cigarettes were not brought here for a commercial purpose. He had no intention of selling the cigarettes, or otherwise putting them to any commercial purpose. He intended for the cigarettes to be smoked by him and immediate family. It was therefore objectively reasonable for him to proceed on the basis that there would be no UK duty point and that the tobacco products could be held by him and brought into the UK without the payment of UK duty.

73. This means that I find that Mr Puiu had a “reasonable excuse” within the terms of paragraph 20 Schedule 41 and therefore he is not liable to any penalty.

CONCLUSION

74. The excise duty assessment for £2719 is confirmed.

75. The notice of penalty assessment for £1046 is set aside. No penalties are due to be paid under Schedule 41 by Mr Puiu in respect of the importation of cigarettes on 6 October 2018 and the failure to pay the required excise duty thereon.

RIGHT TO APPLY FOR PERMISSION TO APPEAL

76. 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.

**TRACEY BOWLER
TRIBUNAL JUDGE**

RELEASE DATE: 09 JULY 2021