



[2022] UKFTT 00117 (TC)

TC 08448

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

Appeal number: TC/2018/08151

BETWEEN

INCOME TAX – assessments and penalties – whether business operated a second undisclosed bank account – yes – whether cash takings suppressed – yes – assessments and penalties upheld – appeal dismissed

WUTTINAN KOTPAT

Appellant

-and-

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

Respondents

TRIBUNAL: JUDGE ANNE FAIRPO

The Tribunal determined the appeal on 4 February 2022 without a hearing under the provisions of Rule 26 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 (default paper cases) having first read the Notice of Appeal dated 18 December 2018 (with enclosures), HMRC's Statement of Case dated 14 June 2019 and the bundles of documents produced by HMRC and the appellant.

DECISION

Introduction

1. This is an appeal against a discovery assessment issued under s29 Taxes Management Act (TMA) 1970 for 2013/14 and three closure notices issued under s28 TMA 1970 for 2014/15, 2015/16 and 2016/2017. The assessment and closure notices were issued on 20 July 2018.
2. The amounts appealed are:
 - (1) 2013/14 discovery assessment: £10,439.77
 - (2) 2014/15 closure notice: £17,162.05
 - (3) 2015/16 closure notice: £19,386.25
 - (4) 2016/17 closure notice: £16,745.36
3. HMRC also raised penalties as follows:
 - (1) 01/06/2013 to 31/08/2014: £1,061.40
 - (2) 01/09/2014 to 30/11/2015: £1,630.52
 - (3) 01/12/2015 to 28/02/2016: £1,500.02
 - (4) 01/03/2016 to 31/05/2017: £1,866.87

Background

4. The appellant (Mr Kotpat) operated a Thai restaurant, acquired on 1 July 2013, as a sole trader. He had previously been employed in the business by the former owner. The dispute is as to whether the correct level of profit has been declared for the business for the relevant years.

Submissions and evidence

5. HMRC's evidence was that they had first conducted a 'test meal' at the restaurant at lunchtime on 11 February 2016. Two officers had a meal and paid £23.90, leaving £1.10 as a tip. The bill was handwritten. During the meal, four other customer groups entered the restaurant (one group of three, three groups of two).
6. Subsequently, on 14 November 2016, HMRC opened an enquiry into the appellant's 2014/15 tax return and requested information and documents relating to the restaurant.
7. A meeting between HMRC and Mr Kotpat, and his accountant, was held on 12 December 2016, during with the following points arose:
 - (1) Mr Kotpat stated that the business was not open at lunchtime; when asked to confirm whether the business had opened at lunchtime during the 2014/15 tax year, he stated that the restaurant had never opened at lunchtime.
 - (2) Sales were recorded each day by totalling the meal tickets and writing the total on an analysis sheet which had been created by Mr Kotpat. Meal tickets were kept in bags, one for each quarter. The completed sheets were sent each quarter to the accountant to prepare and submit VAT and self-assessment returns. The business had no till or cash register. Cash was kept in a locked drawer and counted at the end of the day when a reading was also taken from the credit card machine.
 - (3) Suppliers were paid either from cash takings or by debit card; Mr Kotpat stated that he did not have any accounts with suppliers. Other expenses (utilities, rates, telephone costs) were paid by direct debit or occasionally by cheque. The employees were paid in cash at the end of the week, with payslips produced by Mr Kotpat's accountant.

- (4) Mr Kotpat took cash drawings of up to £250 per week, depending on the cash available. When cash was not available, he would withdraw the balance to £250 from the bank. Details of the cash withdrawn were not kept.
- (5) The accountant confirmed that drawings were calculated as an estimated balancing figure when preparing the balance sheet.
- (6) Mr Kotpat stated that he lived in a friend's house, paying £50 per week, and so did not have any formal rent or other housing costs.
8. A further meeting was held on 7 August 2017. At this meeting, Mr Kotpat stated that he had experimented with lunchtime openings since the last meeting, with mixed results. He now also said that he had sometimes opened at lunchtimes before December 2016, but only when there had been a booking. No record of bookings was kept.
9. HMRC advised Mr Kotpat that they had established that the test meal in February 2016 had not been included in the records for the relevant day, which included only one meal paid in cash, and only two other card transactions in the evening. Mr Kotpat stated that if there was not much cash received on a particular day then he would only complete one meal ticket for the total cash received. HMRC submitted that the records provided showed varying numbers of cash transactions and varying numbers of meal tickets for cash transactions.
10. HMRC advised that five other test meals had been made during June 2016, of which only two appeared in the records. On 16 June 2016, HMRC officers had paid for a meal in cash but the records for the day showed only three card transactions. On 25 June 2016 another meal had been paid for in cash but again, the records showed only four card transactions. Mr Kotpat suggested that he may have forgotten to include the the transactions in the records.
11. HMRC advised that the merchant payment processor (Merchant Acquirers) had provided evidence that the business had two accounts. One account was credited to Lloyds Bank and the total value of card transaction sales matched the amounts credited to Lloyds. The second account was not credited to Lloyds, indicating that funds were paid to a different bank account although HMRC did not disclose the name of the bank. Following a discussion between Mr Kotpat and his accountant, the accountant advised that Mr Kotpat had stated that he had an account with HSBC and that income from the restaurant had been paid into this account.
12. On 7 August 2017 HMRC also opened an enquiry into Mr Kotpat's 2015/16 tax return.
13. Subsequently, in a letter dated 12 October 2017, Mr Kotpat's accountant stated that Mr Kotpat had advised that he did not in fact have an HSBC bank account.
14. On 9 November 2017, HMRC wrote to Mr Kotpat's accountant stating that HMRC had not said that Mr Kotpat had a bank account with HSBC, only that they knew that payments were made to a second bank account. Mr Kotpat had volunteered the information that the account was with HSBC. This matched the information provided by Merchant Acquirers, that the second account was paid into a bank account at an HSBC branch in Leamington Spa. HMRC requested statements for this account.
15. That letter also set out HMRC's calculation of Mr Kotpat's cash position for the 2014/15 tax year, which indicated that Mr Kotpat's explanation of his income and expenses indicated that further income of £11,639 would be needed to meet the expenses stated. Taken together with the missing test meal purchases, HMRC considered that Mr Kotpat had not correctly recorded all of his cash takings.
16. On 14 March 2018, Mr Kotpat's accountant replied that Mr Kotpat had stated that he did not have a business account with HSBC and so could not supply statements. He also did not agree with the cash deficit calculated by HMRC.

17. On 12 April 2018 HMRC wrote to Mr Kotpat stating that although HMRC had the bank account number and sort code of the HSBC account, they could not disclose the details due to confidentiality as the account “may be in someone else’s name”. The total amount paid by Merchant Acquirers to that HSBC account for the period from 1 July 2013 to 31 March 2017 amounted to £181,687.14. Mr Kotpat submitted that this account was not associated with the business and had nothing to do with him.

18. On 12 April 2018 HMRC also opened an enquiry into Mr Kotpat’s 2016/17 tax return.

19. On 20 July 2018 HMRC issued an assessment for the 2013/14 tax year and closure notes for 2014/15, 2015/16 and 2016/17 were issued.

20. Following an appeal to HMRC and a review, Mr Kotpat appealed to this tribunal on 18 December 2018.

21. Mr Kotpat’s case, in his witness statement, was that HMRC had not provided any clear evidence to support their contention that he had underdeclared sales, and he stated that he had not understated cash takings nor omitted any takings generally, including those relating to any test meals. He submitted that HMRC had not provided any receipts evidencing the test purchases which they stated had been made, only handwritten notes outlining HMRC acting as customers, which he contended did not prove that they had made the alleged purchases. He further submitted that his records were complete and accurate. Any additional cash required to meet outgoing had been borrowed from friends as the performance of the business was deteriorating. He also stated that additional cash to meet outgoing had been funded from his savings. Mr Kotpat considered that HMRC had based their assessments on inaccurate assumptions and that the amounts misrepresented the business.

22. Mr Kotpat noted that the proceedings had had a detrimental effect on his health, and he was suffering from depression. He stated in his witness statement that he had closed the business due to ill health, although in his outline of case he stated that he had ceased trading because the business was unsuccessful and it was not financially feasible to continue trading.

23. HMRC contended, in summary, that Mr Kotpat had failed to declare takings paid into the second bank account, as the amounts declared to HMRC related only to the Merchant Acquirers account paid into the Lloyds bank account. They also contended that he had failed to declare all of his cash takings as only two of the six test meals carried out by HMRC had been included in the records provided by Mr Kotpat to HMRC, and Mr Kotpat’s explanations as to how these had been recorded was not borne out by the business records.

Whether there were two bank accounts

24. HMRC contended that the business had access to two bank accounts, as the data from Merchant Acquirers for the business showed that payments were made to two bank accounts. Further, HMRC contended that in a meeting Mr Kotpat had confirmed that he had a bank account with HSBC, at a time when HMRC had stated only that they were aware of a second bank account and had not named the bank at which that account was held.

25. Mr Kotpat stated that he did not hold an HSBC bank account and that, as HMRC had identified that the account was not held in his name, payments into that account should not be considered to be his income.

26. The Tribunal bundle included a number of bank statements. A ‘Square Deal ISA’ with an unnamed bank showed an interest payment of £149.69 on 31 March 2015 (on a balance of approximately £5,800 - the figure is not clear in the statement) and a cash deposit of £400 on 23 May 2015. Statements were not provided for any wider period for this account. This information does not support Mr Kotpat’s contention that any cash deficit in the business was funded from his savings.

27. Statements for a Lloyds bank account were also provided by Mr Kotpat to the Tribunal for the period April 2014 to April 2015. Statements for the period May 2013 to July 2017 were provided to HMRC and included in the Tribunal bundle.

28. Mr Kotpat provided copies of his “takings and payments analysis sheets” for the year ended 31 March 2015. These show a number of cheques paid out, with the following details:

- (1) 10 April 2014: cheque #11 for £365.35
- (2) 20 June 2014 (in the analysis sheet for the period 15.8.14 to 30.8.14): cheque #12 for £2,584.18 for VAT (or possibly £2,384.18 - the tribunal bundle copy is faint)
- (3) 1 August 2014: cheque #14 for £261.27
- (4) 23 September 2014: cheque #16 for £2,342.99 for VAT
- (5) 23 September 2014: cheque #17 for £433.01
- (6) 23 September 2014: cheque #18 for £300.00

29. In the analysis for the period 23 September 2014 to 11 October 2014 there is also an entry for a cheque dated 2 December 2014, being cheque #19 for £406.xx (the pence figures are illegible in the tribunal bundle copy).

30. None of these cheques appear in the Lloyds bank statements. For the year ended 31 March 2015, the statements show only one cheque paid out, being cheque #276 for £104.00 which was debited from the account on 10 December 2014. There are no payments out which correlate to the amounts and dates of the cheques in the “takings and payments analysis”, including the VAT payment cheques.

31. The bank statements for the year ended 31 March 2015 show total payments out of £20,036.18, of which £10,000 was paid as a single amount to “Listers VW Leaming”, a car dealership, such that the payments out of the account excluding that Listers purchase amount to approximately £10,000 and, so far as identifiable, are primarily personal expenditure (at retailers such as Boots, Kwik-Fit, Homebase, Debenhams, Pets at Home, and some foreign payment transfers).

32. In the business accounts for the same period, the business utilities bills (stated by Mr Kotpat to HMRC to have been paid by debit card or cheque) amounted to over £3,700; rates and water which he also stated in the meeting were paid from the bank account were over £4,800; rent costs of £14,000 were also paid, and over £25,000 in supplies (stated to have been paid for in cash and by debit card) were purchased. There is only one debit transaction in the statements, to ‘Booker’ on 24 September 2015, which may be the Booker Cash & Carry supplier stated to have been used by the restaurant. The accounts also show bank charges, interest and finance costs of £1,020 which are not reflected in the Lloyds bank statements.

33. The Lloyds bank account was therefore obviously not used for any substantive business expenses, and Mr Kotpat’s own takings and payment analysis shows cheque payments which were not paid from the Lloyds account. The accounts show expenses which Mr Kotpat stated were paid from a bank account but which have not been paid from the Lloyds bank account.

34. Given this evidence, Mr Kotpat’s contention that there was no other business bank account is clearly not sustainable; I find that, as stated by Mr Kotpat at a meeting with HMRC albeit subsequently denied, the business had access to a second bank account with HSBC. It may be that this account was not in Mr Kotpat’s name but that does not mean that the business income paid into that account is not taxable upon Mr Kotpat, as he was the sole owner of the business.

Cash takings understatement

35. HMRC contended that the test meals undertaken by HMRC showed that not all cash takings were recorded. They further contended that a cashflow analysis of the business records supported this, as the analysis of the business records provided showed a steadily increasing deficit and a maximum cash deficit of £6,111 during the year ended 31 March 2015. This, combined with the personal cash expenditure which Mr Kotpat said he had incurred, indicated that Mr Kotpat would have required additional cash of £11,639 in order to meet all of his personal and business expenditure.

36. HMRC submitted that there had therefore been an understatement of cash takings by the business.

Test meals

37. Mr Kotpat's explanation, in his outline of the case, for the apparently missing test meal purchases from his records was that all cash payments were often included on one meal ticket, instead of being recorded as separate payments. He had also given this explanation to HMRC in a meeting.

38. Mr Kotpat also contended that HMRC had not proved that they made the test purchases, as they had not produced the receipts for the meals, other than a photograph of one meal receipt, and had only produced handwritten notes purporting to describe a visit.

39. HMRC provided the notes produced by the officers for the test meals. Each of the test meals was paid for in cash. HMRC submitted that Mr Kotpat's explanation as to why the payments did not appear in his records was not credible for the following reasons:

- (1) with regard to the test meal on 11 June 2016, there were four other cash sales shown in the records such that no consolidation had taken place
- (2) the records for 16 June 2016 showed cash sales of £8.50, £34.35 and £16.05, none of which could include the test meal total on that date of £45.20
- (3) with regard to the test meal on 25 June 2016, there were no cash sales shown in the records for that date

40. Having reviewed all of the information provided to me, I see no reason to discount HMRC's evidence as to the test meals. I do not consider it inherently likely that the HMRC officers simply fabricated evidence as to the meals eaten. I also note that Mr Kotpat's explanations are essentially contradictory, as he effectively states both that the test meals were included in his records albeit as part of a larger total and also states that he does not consider that there is sufficient evidence that the test meals took place at all.

41. I note also that Mr Kotpat stated in a meeting with HMRC that he did not open at lunchtimes, whereas the test meal notes provided to the Tribunal showed that the first of the test meals was undertaken at lunchtime. Although Mr Kotpat stated in a subsequent meeting that he had occasionally opened at lunchtimes, this was qualified by an explanation that he only opened if he had a booking, and he did not provide any evidence (or indeed suggest) that he had opened on the test meal date as a result of a booking. Mr Kotpat also made no reference to this in his witness statement.

Cashflow

42. Mr Kotpat provided no detailed explanation as to the cashflow deficit identified by HMRC for the year to 31 March 2015. He stated variously that any deficit had been funded from savings and that he had received money from friends to assist. The only savings account statement provided shows no withdrawals in the period 31 March 2014 to 23 May 2015 (and shows one deposit of £400).

43. The Lloyds bank statements show a balance on 1 April 2014 of £8,170.64 and a balance of £3,524.44 on 31 March 2015. Whilst this might indicate a net outflow from the Lloyds account, there was also a single payment from that account during the year of £10,000 to “Listers VW Leaming”, a car dealership. Mr Kotpat did not make any statement about this expense, but I note that the business accounts for the year ended 31 March 2015 show no additions to the “Motor Vehicles” fixed assets and the figure for repairs expenses in that year is £550.

44. Without that single £10,000 payment out, there would have been a net increase in the balance of the Lloyds account during the year ended 31 March 2015. I find therefore that neither Mr Kotpat’s savings account nor his Lloyds bank account support his contention that any cashflow deficit was funded from savings. No evidence was provided to support his contention that his friends funded the deficit, and it appears unlikely that Mr Kotpat would have spent £10,000 at a car dealership for non-business reasons if he also required several thousand pounds in funds from friends to support his business.

45. I find therefore that test meal purchases were not recorded and that the cashflow analysis of Mr Kotpat’s records shows that his business and personal expenditure was considerably in excess of the cash takings declared by the business. I also find that Mr Kotpat has not shown that he had any other source of cash to support this expenditure. I therefore find that the cash takings were understated in the 2014/15 tax year and considered that HMRC’s analysis that the business required at least £11,639 of additional cash to be a reasonable assessment of the shortfall.

Validity of assessments

46. HMRC submitted that they were entitled to make assessments under s29 Taxes Management Act (TMA) 1970 as they had discovered a loss of tax which they contended was brought about by careless or deliberate behaviour on the part of the appellant. They further contended that an officer could not have been reasonably expected, on the basis of the information made available before that time, to have even aware of the loss of tax.

47. HMRC contended that they had conducted test eats in June 2016, had commenced enquiries on 14 November 2016, and had issued a ‘notice of check’ on 7 August 2017 once they had examined the evidence provided by the appellant and discovered that there had been a loss of tax.

48. HMRC submitted that the assessments for 2014/15 to 2016/17 had been validly issued within the four-year time limit in s34 TMA 1970, as they were issued on 20 July 2018. This time limit is extended to six years by s36 TMA 1970 where the behaviour that led to the understatement of tax is careless, or twenty years where the behaviour is deliberate. In each case, the time limit is from the end of the year of assessment to which it relates. The discovery assessment for 2013/14 was issued more than four (but less than six) years after the end of the year of assessment. HMRC contended that this assessment was also in time as the behaviour which led to the loss of tax was deliberate, as Mr Kotpat had knowingly not declared income received into the second bank account and had knowingly understated his cash takings.

49. Mr Kotpat did not make any submissions that the assessments had not been made in time, as his submissions as to validity related only to the question of whether the assessments had been made to best judgement.

50. Having considered the evidence, and the findings made above, I consider that there was a relevant discovery and (as set out below in respect of penalties) that the behaviour which led to the understatement of tax was deliberate. I find that the assessments were therefore raised in time as they were raised within the relevant time limits permitted by law in those circumstances.

Whether assessments made to best judgement

51. HMRC established the amounts assessed for 2014/15 as follows:

- (1) Total card transactions: £104,768.54 (Merchant Acquirer data for the two bank accounts into which deposits were made)
- (2) Cash sales recorded by Mr Kotpat: £31,489
- (3) Cash deficit (from cashflow analysis and personal expenditure): £11,639

52. These figures indicated that the cash/card split for the business figures established was 29.16% cash and 70.84% card. HMRC rounded the amounts to a 70/30 card/cash split to account for cash on hand at the end of the accounting period which would not be reflected in the accounts. As Mr Kotpat's own figures indicated that the business card/cash split was 64/36, HMRC considered that a 70/30 split was reasonable for the business. Given my findings with regard to the bank accounts and cash takings, I see no reason to disagree with this analysis.

53. HMRC contended that the principle of presumption of continuity should be applied. They stated that they had requested evidence which could rebut the presumption and none had been provided. Following the decisions in *Jonas v Bamford* [1973] STC 519, *Dr I Syed* [2011] UKFTT 315 (TC) and *Why Pay More For Cars Ltd* [2015] UKUT 468 (TCC), the continuing existence of the second bank account and the pattern of behaviour in failing to record test meal cash purchases meant that it was reasonable to conclude that the same behaviour had been followed in previous years and should be presumed to go on unless some change in the situation had been shown to have arisen. HMRC submitted that no such change in the situation had been shown.

54. HMRC had therefore used the 70/30 split established for 2014/15 and applied that to other years, using the Merchant Acquirer data as the card-based element of the turnover.

55. Mr Kotpat contended HMRC could not be expected to know his true tax position and had no authority to predict projected figures. He submitted that there was no supporting evidence to show that the estimated cash sales had taken place. He also contended that there was nothing to suggest that takings remained consistent over time. Mr Kotpat contended that the assessments were ultimately a guess and inaccurate as well as based on unreasonable assumptions.

56. Having reviewed the evidence put to me, I find that the principle of presumption of continuity can reasonably be considered to apply as there was no evidence that there was anything unusual in the 2014/15 accounting period with regard to cash sales or the use of the accounts. I do not consider that Mr Kotpat has succeeded in rebutting the presumption.

57. HMRC further submitted that the amounts had been assessed to best judgement, following the principles set out in *Van Boeckel* [1981] STC 290 that:

- (1) HMRC should not be required to do the work of the taxpayer
- (2) HMRC must perform their function honestly and above board
- (3) HMRC should fairly consider the material before them and on that material come to a decision which is reasonable and not arbitrary, and there must be some material before the commissioners on which they can base their judgement

58. HMRC submitted that they had used the material available to them, being the information from Merchant Acquirer and the cash data established for 2014/15 from Mr Kotpat's records, and had applied this in making assessments which it was submitted were made to best judgement.

59. Mr Kotpat contended that the assessments were too high and were unreasonable, and that the test purchases were not sufficient to reflect cash takings correctly.

60. I find that the assessments were made to best judgement. They are based on material available to HMRC and I do not consider that the decision is arbitrary. Indeed, the card/cash split is favourable to Mr Kotpat by comparison with the split available from his own records and I consider shows that HMRC were endeavouring to establish a reasonable figure as they did not simply apply his card/cash split to the Merchant Acquirer data. The test purchases are evidence that cash takings were not fully recorded but have not, as Mr Kotpat suggested, been used as the basis of the assessment directly.

61. I note that Mr Kotpat contended that “Capital Allowances need be taken into account if and when adjustments are made to the accounts”. It is unclear what he intended by this submission as the section marked ‘Capital Allowances’ in his bundle consisted of a table showing allowances of £0. If Mr Kotpat considered that deductions for allowances should have been included, this table should have shown the amounts which he wished to have taken into account. In the absence of any specific claim for allowances by Mr Kotpat, no deduction can be given.

62. To the extent that Mr Kotpat’s comments questioning the test meals (set out earlier in this decision) were intended to reflect on HMRC’s honesty in making this assessment, as set out above I do not consider that his contentions are sustainable. As Mr Kotpat has not shown that any alternative amounts should displace the assessments, the assessments are upheld.

Penalties

63. HMRC noted that the penalties did not appear to have been appealed as the amount stated in the notice of appeal in respect of penalties was £0 and the amount appealed was the total of the discovery assessments only.

64. As Mr Kotpat had made comments about the penalties in his outline of case and HMRC had provided submissions as to penalties, I have considered the comments and submissions made.

65. HMRC raised a penalty under Schedule 24, Finance Act 2007, on the basis that the behaviour which led to the understatement of tax was deliberate and concealed, as takings were paid into an account which was not declared to HMRC and cash takings were not declared. For a deliberate and concealed understatement, with a prompted disclosure (as the account and suppression of takings were only brought to HMRC’s attention after the enquiry had been opened), the penalty range is 50% to 100% of the potential lost revenue.

66. HMRC allowed a reduction of 55%, giving 5% for ‘telling’ as Mr Kotpat had admitted the existence of the second bank account before denying it again. Mr Kotpat also did not accept that there had been suppression of cash takings after being presented with HMRC’s findings. A 30% reduction for ‘helping’ had been given as Mr Kotpat had attending two meetings and answered questions, albeit that HMRC considered that his replies were not accurate. A reduction of 20% was allowed for ‘giving’ as business records had been provided.

67. Applying this 55% reduction to the difference between the maximum and minimum possible penalty gave a reduction of 27.5%, such that the penalty percentage applied was 72.5%.

68. Mr Kotpat contended that he had been co-operative with HMRC throughout the investigation and had provided his records to them. He considered that the reduction of 55% applied by HMRC was unreasonable as it did not take this into account. He considered that the penalty was unfair and ignored his co-operation.

69. Having considered the evidence, and noting that I have found that Mr Kotpat had a second bank account into which takings were paid which were not disclosed to HMRC and further that he understated his cash takings in his tax returns, I consider that, as Mr Kotpat was a sole trader and stated that only he ran the business, the behaviour which led to the understatement of tax cannot be anything other than deliberate. I see no reason to disturb HMRC's reduction percentages and so find that the penalty has been correctly raised and is upheld.

Fairness

70. Mr Kotpat stated that he believed he had been treated unfairly in the investigation and that there had been no consideration of the impact of the investigation on his mental health.

71. It has been well established in case law (such as *Hok* [2012] UKUT 363 (TCC)) that this Tribunal has no general supervisory jurisdiction over HMRC. To the extent that Mr Kotpat has a complaint about the way in which HMRC carried out their enquiries, the appropriate person to communicate with is the HMRC Adjudicator.

Conclusion

72. For the reasons set out above, the assessments and penalties are upheld in full. The appeal is dismissed.

Right to apply for permission to appeal

73. 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.

**ANNE FAIRPO
TRIBUNAL JUDGE**

Release date: 01 APRIL 2022