

# **R (on the application of Cobalt Data Centre 2 LLP and another) (Appellants) v Commissioners for His Majesty's Revenue and Customs (Respondent)**

**Case ID: UKSC 2022/0174**

## **Case summary**

### **Issues**

Does section 298(1)(b) of the Capital Allowances Act 2001 ("the 2001 Act") entitle the appellants to initial 100% capital allowances for expenditure they incurred in the construction of data centres in an enterprise zone?

### **Facts**

In 2011, the appellants, Cobalt Data Centre 2 LLP and Cobalt Data Centre 3 LLP ("the taxpayers"), purchased the benefit of a contract for the construction of buildings within an enterprise zone (the "Golden Contract"). The Golden Contract had been entered into in 2006 between a developer and a contractor, and the buildings were completed in 2012. Section 298(1) of the 2001 Act which provides that the time limit for expenditure on the construction of a building is "(a) 10 years after the site was first included in the zone, or (b) if the expenditure is incurred under a contract entered into within those 10 years, 20 years after the site was first included in the zone". The taxpayers claimed that the requirements of section 298(1)(b) of the 2001 Act were met and therefore the whole of the price they had paid to acquire the benefit of the Golden Contract qualified for enterprise zone capital allowances ("EZAs"). The Respondent ("HMRC") rejected their application, finding that the requirements of section 298(1)(b) had not been met and so no EZAs were payable. The Upper Tribunal ("UT") disagreed, holding that the requirements of section 298(1)(b) had been met. However, in a separate decision on quantum, the UT allowed the taxpayers only around half of the EZAs they had sought. HMRC appealed and the LLPs cross-appealed in relation to quantum. The Court of Appeal ("CA") allowed HMRC's appeal and adjourned the taxpayers' cross-appeal pending the outcome of the LLPs' proposed appeal to the Supreme Court. The taxpayers now appeal to the Supreme Court.

### **Judgment appealed**

[\[2022\] EWCA Civ 1422](#)

### **Parties**

#### **Appellant(s)**

- (1) Cobalt Data Centre 2 LLP
- (2) Cobalt Data C

#### **Respondent(s)**

Commissioners for His Majesty's Revenue and Customs

### **Appeal**

#### **Justices**

Lord Briggs, Lord Sales, Lord Burrows, Lady Rose, Lord Richards

**Hearing start date**

24 January 2024

**Hearing finish date**

25 January 2024

**Watch hearing**

24 January 2024 [Morning session](#) [Afternoon session](#)

25 January 2024 [Morning session](#) [Afternoon session](#)