TC02068

Appeal number: TC/2010/07954

VALUE ADDED TAX – Reduced rate – Schedule 7A Value Added Tax Act 1994 – Group 6 Notes 2, 3,4 and 6 – qualifying conversion – whether conversion of 36 bedsits in sheltered accommodation for the elderly into 36 self-contained flats amounted to "changed number of dwellings conversion" – No – Whether use prior to conversion was a home or other institution providing residential accommodation with personal care or an institution which is the sole or main residence of at least 90 per cent of its residents – No – Appeal dismissed

FIRST-TIER TRIBUNAL
TAX CHAMBER

CORDERY BUILD LIMITED **Appellant**

- and -

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

TRIBUNAL: JUDGE TIMOTHY HERRINGTON
ELIZABETH BRIDGE

Sitting in public at 45 Bedford Square, London WC1B 3DN on 11 April 2012

Mr David Moll, DKS VAT Specialist, for the Appellant

Mr Christopher Francis Shea, Appeals and Reviews Unit, HM Revenue and Customs, for the Respondents

DECISION

1. By Notice of Appeal dated 8 October 2011, the Appellant, Cordery Build Ltd ("Cordery") appealed against the review decision made by the Respondents on 20 August 2010 to increase the output tax payable by Cordery by £33,152.52 in respect of construction services provided by Cordery to Countrywide (Mathon) Ltd ("CML") which had previously been supplied with VAT added at the reduced rate of 5%. Following the review, the Respondents ("HMRC") upheld their decision that the construction services in question should have been subject to VAT at the standard rate, and the assessment that had been issued to increase the output tax represented the difference between the standard rate and the reduced rate applied by Cordery.

Background Facts

2. The matters described in paragraphs 3 to 7 below are common ground between the parties and we find them as facts.

3. In June 2009 CML purchased a property known as Mathon Court, which is situated in Guildford, from Guildford Sunset Homes ("GSH"), a charity that exists to provide sheltered accommodation for the elderly. Prior to that purchase Mathon Court had been used to provide 36 bedsit dwellings for the elderly, and the building had planning permission to that effect.

4. When Mathon Court was occupied as described in paragraph 3 above, GSH provided a part-time estate manager who lived in a flat on an adjacent property. The manager's duties included providing support to the residents in Mathon Court by calling on them at regular intervals. The manager would liaise with relatives of residents or social services when the residents had personal issues or she was concerned with the welfare of any resident.

5. Each bedsit had a bell cord that the resident could use in the case of emergency. When the cord was pulled, a call centre operated on behalf of GSH would attempt to contact the resident. If this was not possible, the estate manager would be alerted and she would call in to see the resident as she had keys to all the flats. If an ambulance or doctor was required, this would be arranged by the estate manager.

6. The 36 units were self-contained bed sits with certain communal facilities, primarily a laundry and a lounge. Each unit was self-contained and had its own washing and kitchen facilities. There was no provision for direct internal access from the bedsit to any other bedsit or part of a bedsit and there was no legal restriction on the separate use or disposal of the dwelling. Each resident, who used their bed-sitting room as their main residence, rented the unit in a secure or assured tenancy from GSH as landlord and were responsible for their own council tax. The emphasis was on independent living and residents were responsible for looking after themselves, subject to the estate manager being available as described in paragraph 5 above. For

planning purposes, Mathon Court was described as "bed sitting rooms for elderly people" rather than as a care home.

7. CML purchased Mathon Court with the intention of changing its use from the provision of sheltered accommodation for the elderly into 36 self-contained dwellings for sale on long lease without restriction as to who could purchase. Conversion works were carried out. These involved removing the bell cord system, erecting a wall in each dwelling to create a separate bedroom and living room, a door between the hallway and the living area, and refurbishment of the kitchen, with the addition of space for a washing machine. After these conversion works had been completed, Mathon Court comprised 36 one bedroom flats which were sold on long leases to individual purchasers.

Relevant law and the issue to be determined

8. Section 29A of the Value Added Tax Act 1994 ("the Act") allows the charging of VAT at a reduced rate of 5% on supplies specified in Schedule 7A to the Act. Group 6 of Schedule 7A relates to 'residential conversions' and item 1 allows the reduced rate to apply to a supply in the course of a 'qualifying conversion' of 'qualifying services' (broadly speaking works to the fabric of the building) related to the conversion.

9. Note 2 to Group 6 gives the meaning of 'qualifying conversion' as either:

(a) a changed number of dwellings conversion;
(b) a house in multiple occupation conversion; or
(c) a special residential conversion

10. Note 3 explains what constitutes a 'changed number of dwellings conversion'. For this to apply, the premises or part thereof after conversion must contain a number of single household dwellings that is different from the number, if any, of single household dwellings it contained before conversion and a number of single household dwellings that is greater than or equal to one. No part of the premises must contain the same number of singe household dwellings before and after the conversion.

11. Note 4 sets out what is meant by a single household dwelling for the purposes of Note 3. A single household dwelling means a dwelling that is designed for occupation by a single household and consists of self contained living accommodation, with no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling; the separate use and separate disposal of the dwelling is not prohibited by the terms of any covenant, statutory planning consent or similar provision.

12. It is common ground between the parties that the services provided by Cordery to CML in relation to the conversion of Mathon Court constituted "qualifying services".

13. It is also common ground that after completion of the conversion Mathon Court comprised 36 one bedroom flats which qualify as dwellings within the terms of Note 4 to Group 6 of Schedule 7A to the Act. The issue is therefore the status of Mathon Court prior to the conversion.

14. Cordery argue that the conversion to 36 flats constitutes a "qualifying conversion". Under sub-paragraph (a) identified in paragraph 9 above, that is a "changed number of dwellings conversion" on the basis that prior to the conversion Mathon Court was in "use for a relevant residential purpose" which is defined in Note 6 to Group 6 of Schedule 7A to the Act to include, in sub-paragraph (b) of the Note:

> "a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age …"

and in sub-paragraph (g) of the Note:

> "an institution which is the sole or main residence of at least 90% of is residents."

References hereafter to a "Note" are to the relevant Note to Group 6 of Schedule 7A to the Act.

15. HMRC argue that prior to conversion Mathon Court comprised 36 self-contained dwellings that lacked the element of "organisation" inherent in an institution or home. The fact that the units were let on secure or assured tenancies demonstrates that the tenants were renting a dwelling rather than a place in an institution. The services provided by the estate manager as described in paragraphs 4 and 5 above were not sufficient to amount to "personal care", which envisaged assistance with body functions and help with washing, bathing, feeding, toileting requirements and medically qualified psychiatric counselling. Consequently, as there were 36 single dwellings before the conversion and 36 single dwellings afterwards, HMRC contends that the services supplied should have been charged with VAT at the standard rate.

16. We set out in full the relevant statutory provisions in the Appendix to this decision.

Evidence

17. We were provided with contractual and marketing documentation which supported the findings of fact set out in paragraphs 3 to 7 above and which were not

disputed by either party. In addition, Mr Robert Spier, a director of CML, also gave oral evidence which for the large part confirmed the factual position described in paragraphs 3 to 7 above. In addition, Mr Spier gave evidence as to the planning position in relation to Mathon Court. It was unclear as to whether the original planning permission given to GSH, which restricted the use of the property to sheltered accommodation for the elderly, was enforceable against subsequent purchasers of the property. Mr Spier's evidence was that after some discussion the planning authority, Guildford Borough Council, having initially indicated that the restriction was enforceable against subsequent purchasers, ultimately confirmed orally that they would not seek to enforce the restriction, although nothing was ever obtained in writing. The issue of planning consent is relevant in that Note 10 provides that a conversion is not a "qualifying conversion" if any statutory planning consent needed for the conversion has not been granted. Because of our conclusions on the question as to whether Mathon Court was used for a "relevant residential purpose" it has not been necessary for us to determine this issue and we make no findings on the question of planning consent.

18. Mr Spier was also asked in cross-examination whether the arrangements for assisting the tenants were in fact no more than the usual facilities to be found in sheltered housing. That goes to the question as to whether Mathon Court was used "for a relevant residential purpose" and, in the same vein as the letter from Mr Young of GSH to a colleague of Mr Spier at CML which Mr Spier referred to and which expressed the view that it could be said that when GSH run Mathon Court as sheltered accommodation for the elderly the property was "an institution which provided the sole or main residence of at least 90% of its residents, are matters which it is for the Tribunal to decide, rather than matters of fact to be proved by evidence.

Submissions

19. Mr Moll submitted that GSH was using Mathon Court for a "relevant residential purpose" either as an "institution which is the sole or main residence of at least 90 per cent of its residents" (see Note 6(g)) or as an "institution providing residential accommodation with personal care for persons in need of personal care by reason of old age" (see Note 6(b)).

20. Mr Moll submitted that it was correct to view GSH as the "institution" concerned. GSH's status as a charity providing subsidised accommodation for the elderly was sufficient to constitute it an "institution" as that term is used in Note 6(b) . In support of this submission Mr Moll cited two cases, namely *Wallis Ltd v Commissioners of Customs and Excise* (VTD 18012) and *St Andrews Property Management Ltd v Commissioners of Customs and Excise* (VTD 20499). In the former case, Judge Wallace in paragraph 39 of the decision, in considering the meaning of "institution", stated:

> In Note (4)(g) "institution" must be referring to a building: a society or organisation cannot be the main residence of the residents. In Note (4)(a) and (b) the term must also be referring to a building, the "use" is that of a building. In all those cases "institution" refers to buildings of a certain type, namely buildings used by an organisation or a body; they could be described as "institutional buildings".

In the latter case, Judge Barlow in paragraph 22 of the decision, in construing the same provisions, made reference to the meaning given in the Concise Oxford Dictionary as follows:

> "In the Concise Oxford Dictionary the normal meaning of the word "institution" includes both "an organisation for promotion of some public object" and "building used by this" and in the Collins English Dictionary we find "an organisation for establishment founded for a specific purpose such as a hospital, church, company or college" and "the building where such an organisation is situated".

21. Mr Moll submitted, relying on these dicta, that it was correct to regard Mathon Court as an "institutional building", in that it was used by an institution, namely GSH, and its use as a residence for at least 90% of its residents meant that it met the requirements of Note 6(g). Mr Moll submitted that the fact that each resident occupied his bedsit pursuant to a separate assured tenancy agreement did not prevent the Note applying; he cited *Opal Carleton Ltd v Commissioners for Her Majesty's Revenue and Customs* [2010] UKFTT 353, where it was not argued that the fact that residents in a student hall of residence occupied their rooms on assured short-hold tenancies stopped the building concerned being regarded as being used for a "relevant residential purpose".

22. In the alternative Mr Moll submitted that Note 6(b) applied, the relevant terms of which are summarised in paragraph 19 above. Mr Moll contended that the level of support provided to residents as described in paragraphs 4 and 5 above was sufficient to amount to "personal care" as this concept is commonly understood to include advice, encouragement and emotional and psychological support, which in this case fell within the scope of the duties of the part-time estate manager at Mathon Court.

Discussion

23. We reject Mr Moll's submission that GSH is to be regarded as an "institution" for the purposes of Notes 6(b) and (g). The passage from *Wallis* quoted in paragraph 20 above, rather than supporting Mr Moll's submission makes it clear that in Judge Wallace's view the term when used in the Note was referring to a building. In that case, the Tribunal had to consider whether a separate building constructed as an existing NHS centre and used for a discrete purpose, as a challenging behaviour unit for mentally ill persons, could be regarded as an institution in its own right. In paragraph 37 of the decision Judge Wallace referred to the New Shorter Oxford English Dictionary (1993) meaning which gave the term the following meaning:

> "A society or organisation, esp. one founded for charitable or social purposes and freq. providing residential care; the building used by such a society or organisation."

He adopted the second part of that passage in paragraph 38 of the decision which is set out in paragraph 20 above. Accordingly, we do not regard the reference to "institutional buildings" at the end of paragraph 38 of the decision as giving any support for the concept that the owner or manager of the building concerned could be regarded as the "institution" for the purposes of Note 6; the reference is perfectly consistent with the concept of the building being the institution and in our view this is the correct interpretation.

24. Similarly, in *St Andrews Property Management Ltd*, where the Tribunal was again considering whether a particular facility built on a larger site occupied by a hospital and which was largely self managed separately from the rest of the hospital was an institution in its own right, Judge Barlow said in paragraph 31 of the decision:

> "There is an argument for saying that Malcolm Arnold House is part of a larger institution in the organisational sense and indeed that would be correct, but we hold that on the interpretation of the provisions which we have held to be the correct one it is an institution in its own right as a building and that is enough for it to qualify for zero-rating."

Again, there is an emphasis on the building concerned being the institution in the context of this legislation.

25. On the basis of that finding, we then need to consider whether Mathon Court itself could be regarded as an "institution". For the purposes of Note 6(g) we accept HMRC's submission in this respect which was that to constitute an "institution" a building must have an element of organisation present. They submit that a distinction is to be drawn between facilities (to use a neutral term) where residents live communally and the way they live their lives is to a large part organised by the management of the facility and buildings used as blocks of self-contained flats where each individual owner is entirely responsible for how his individual property is used and how he lives in it, notwithstanding there may be limited shared facilities.

26. Before the conversion in our view Mathon Court would have been correctly described as a property consisting of sheltered housing. We were given an information leaflet produced by the Charity Age Concern entitled "What is sheltered housing?" Both parties accepted this leaflet as an accurate description of this concept. The relevant provisions stated as follows:

> **"What is sheltered housing?**
>
> Sheltered housing is specially designed accommodation, mainly for older people, which you can buy or rent. It can also be called retirement housing.

> While different schemes vary, most will provide:
>
> - self-contained flats with their own kitchen and bathroom
> - a laundry
> - a communal lounge
> - optional social activities
> - communal gardens
> - a guest room for overnight visitors
> - security and safety features
> - A warden or Scheme Manager
> - 24-hour emergency assistance through an alarm scheme.
>
> **Why choose sheltered housing?**
>
> Sheltered housing might appeal to you if you want to live independently, perhaps in a smaller and easier-to-manage home, and like the idea of having someone to call on if there is an emergency. Sheltered housing differs from other types of housing because of the presence of a Scheme Manager (sometimes called a warden) who lives on the premises, or nearby."

Many of these features were present at Mathon Court, but the key distinctive feature between sheltered housing and institutional accommodation in our view is the emphasis on independent living, notwithstanding the degree of support and communal facilities available. This was a key feature of Mathon Court prior to the conversion and we do not believe that the degree of support available was sufficient to give the property the necessary organisational features to constitute it an "institution"

27. Nor do we believe that in common parlance people would refer to a building comprising sheltered housing as an "institution". This was alluded to in paragraph 23 of the decision in *St Andrews Property Management* where it was stated:

> "We are familiar with such expressions as "he went to live in an institution" "they sent him to an institution."

28. Those with experience of elderly relatives moving to sheltered housing would most likely receive an adverse reaction were such phrases to be used in describing the nature of the facility that the relative was moving to.

29. We therefore find that Mathon Court prior to the conversion was not an "institution" as that term is used in Note 6(g). We should add that in our view the fact that residents live in self-contained living accommodation subject to separate tenancy agreements does not necessarily preclude a finding that a particular building is an institution for the purposes of Note 6(g), provided there was a sufficient element of organisation surrounding the living arrangements of the occupants. We do not believe, as submitted by Mr Moll, that Opal Carleton provides any authority for that proposition, because in that case the accommodation concerned was residential accommodation for students as provided for in Note 6(d), which is not qualified by

reference to such accommodation amounting to an institution. Nevertheless, we do not see anything in the relevant legislation that would inevitably lead to a conclusion that the provision of self-contained accommodation within a building that has many communal features and a high degree of organisation over the residents' living arrangements (which we have not found to be present at Mathon Court) is not capable of falling within Note 6(g). Each case will of course depend on its own facts.

30. There is clearly an overlap between Note 6(g) and Note 6(b). One of the features that leads us to the conclusion that Mathon Court was not an "institution" for the purposes of Note 6(g) was the fact that there was not the necessary degree of organisational arrangements around residents' day-to-day lives, an element of which could be personal care to assist residents with their day-to-day needs.

31. In any event, in our view the support arrangements described in paragraphs 4 and 5 above are insufficient to amount to "personal care" as that term is used in Note 6(b). We were referred to a number of publications which seek to define the term. Both parties relied on the definition to be found on the website of an organisation offering advice to older people on support that might be available to them from government and other agencies. The full description referred to reads as follows:

> "Personal Care includes: assistance with dressing, feeding, washing and toileting, as well as advice, encouragement and emotional and psychological support. The Department of Work and Pensions (DWP) defines this as attention required in connection with bodily functions. Bodily functions can include dressing, washing, bathing or shaving, toileting, getting in or out of bed, eating, drinking, taking medication, communicating. Seeing and hearing are also considered to be bodily functions."

32. We agree that, although not exhaustive, this definition provides a comprehensive description of the essential elements of what would be regarded as "personal care" within the natural and ordinary meaning of these words. We are therefore content to apply it in the context of this case.

33. Mr Moll submitted that it was sufficient to meet the requirements of "personal care" if what was provided was confined to "advice, encouragement and emotional and psychological support". There was no suggestion that the duties of the part-time estate manager in this case extended to providing help in relation to bodily functions. There was very little evidence of what support in practice the part-time estate manager provided. In our view to constitute "personal care" it needed to go beyond mere neighbourly assistance as and when required and connotes a degree of continuity in providing regular assistance and attention to the resident's needs on an ongoing basis. There was no evidence of this before us, and the onus is on Cordery to satisfy us that the services being provided amounted to "personal care". We find that the burden has not been satisfied in this case. In any event, whilst we would not rule out the possibility that "advice, encouragement, and emotional and psychological

support" alone if provided intensively could amount to "personal care", as the definition itself envisages, the primary focus will be on assistance with bodily needs and functions and it would be expected that in normal circumstances some of those elements described in the definition would be present. Consequently, we find that the services provided at Mathon Court were not sufficient to constitute "personal care" within Note 6(b).

Conclusion

34. We therefore conclude that Mathon Court was not, prior to the conversion, used for a "relevant residential purpose" within Note 6(b) or (g). Consequently, the conversion undertaken was not a "qualifying conversion" within the meaning of Note 2 as it was not "a changed number of dwellings conversion" within the meaning of Note 2(1)(a). This is because the number of dwellings both before and after the conversion were the same. We find that before the conversion there were 36 single household dwellings which met the requirements of Note 4(3) on the basis of our findings in paragraph 6 above and the conversion of the bed sits into self-contained flats though the creation of a separate bedroom and other works described in paragraph 7 above did not change the position. There were 36 single household dwellings after the conversion. HMRC were therefore correct in adjusting Cordery's 12/09 VAT return to disallow the reduced rate of VAT applied by Cordery in relation to the conversion and the appeal is dismissed.

35. 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.

TIMOTHY HERRINGTON
TRIBUNAL JUDGE

RELEASE DATE: 14 June 2012

APPENDIX

Section 29A(1) and relevant provisions of Schedule 7A to the Value Added Tax Act 1994

29A Reduced rate

(1) VAT charged on –

(a) any supply that is of a description for the time being specified in Schedule 7A, or

(b) any equivalent acquisition or importation

Schedule 7A

Part II
The Groups

Group 6
Residential Conversions

Item No.

1

The supply, in the course of a qualifying conversion, of qualifying services related to the conversion.

2

The supply of building materials if –

(a) the materials are supplied by a person who, in the course of a qualifying conversion, is supplying qualifying services related to the conversion, and

(b) those services include the incorporation of the materials in the building concerned or its immediate site.

Notes

Supplies only partly within item 1

1

(1) Sub-paragraph (2) applies where a supply of services is only in part a supply to which item 1 applies.

(2) The supply, to the extent that it is one to which item 1 applies, is to be taken to be a supply to which item 1 applies.

(3) An apportionment may be made to determine that extent.

Meaning of "qualifying conversion"

2

(1) A "qualifying conversion" means –

(a) a changed number of dwellings conversion (see paragraph 3)

(b) a house in multiple occupation conversion (see paragraph 5), or

(c) a special residential conversion (see paragraph 7).

(2) Sub-paragraph (1) is subject to paragraphs 9 and 10.

Meaning of "changed number of dwellings conversion"

3

(1) A "changed number of dwellings conversion" is –

(a) a conversion of premises consisting of a building where the conditions specified in this paragraph are satisfied, or

(b) a conversion of premises consisting of a part of a building where those conditions are satisfied.

(2) The first condition is that after the conversion the premises being converted contain a number of single household dwellings that is –

(a) different from the number (if any) that the premises contain before the conversion, and

(b) greater than, or equal to, one.

(3) The second condition is that there is no part of the premises being converted that is a part that after the conversion contains the same number of single household dwellings (whether zero, one or two or more) as before the conversion.

Meaning of "single household dwelling" and "multiple occupancy dwelling"

4

(1) For the purposes of this Group "single household dwelling" means a dwelling –

(a) that is designed for occupation by a single household, and

(b) in relation to which the conditions set out in sub-paragraph (3) are satisfied.

(2) For the purposes of this Group "multiple occupancy dwelling" means a dwelling –

(a) that is designed for occupation by persons not forming a single household, …

(aa) that is not to any extent used for a relevant residential purpose, and

(b) in relation to which the conditions set out in sub-paragraph (3) are satisfied.

(3) The conditions are –

(a) that the dwelling consists of self-contained living accommodation,

(b) that there is no provision for direct internal access from the dwelling to any other dwelling or part of a dwelling,

(c) that the separate use of the dwelling is not prohibited by the terms of any covenant, statutory planning consent or similar provision, and

(d) that the separate disposal of the dwelling is not prohibited by any such terms.

(4) For the purposes of this paragraph, a dwelling "is designed" for occupation of a particular kind if it is so designed –

(a) as a result of having been originally constructed for occupation of that kind and not having been subsequently adapted for occupation of any other kind, or

(b) as a result of adaptation.

Meaning of "house in multiple occupation conversion"

5

(1) A "house in multiple occupation conversion" is –

(a) a conversion of premises consisting of a building where the condition specified in sub-paragraph (2) below is satisfied, or

(b) a conversion of premises consisting of a part of a building where that condition is satisfied.

(2) The condition is that –

(a) before the conversion the premises being converted do not contain any multiple occupancy dwellings,

(b) after the conversion those premises contain only a multiple occupancy dwelling or two or more such dwellings, and

(c) the use to which those premises are intended to be put after the conversion is not to any extent use for a relevant residential purpose.

Meaning of "use for a relevant residential purpose"

6

For the purposes of this Group "use for a relevant residential purpose" means use as –

(a) a home or other institution providing residential accommodation for children,

(b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder,

(c) a hospice,

(d) residential accommodation for students or school pupils,

(e) residential accommodation for members of any of the armed forces,

(f) a monastery, nunnery or similar establishment, or

(g) an institution which is the sole or main residence of at least 90 per cent of its residents.

except use as a hospital, prison or similar institution or an hotel, inn or similar establishment.

…

Conversion not "qualifying" if planning consent and building control approval not obtained

10

(1) A conversion is not a qualifying conversion if any statutory planning consent needed for the conversion has not been granted.

(2) A conversion is not a qualifying conversion if any statutory building control approval needed for the conversion has not been granted.

Meaning of "supply of qualifying services"

11

(1) In the case of a conversion of a building, "supply of qualifying services" means a supply of services that consists in –

(a) the carrying out of works to the fabric of the building, or

(b) the carrying out of works within the immediate site of the building that are in connection with –

(i) the means of providing water, power, heat or access to the building,

(ii) the means of providing drainage or security for the building, or

(iii) the provision of means of waste disposal for the building.

(2) in the case of a conversion of part of a building "supply of qualifying services" means a supply of services that consists in –

(a) the carrying out of works to the fabric of the part, or

(b) the carrying out of works to the fabric of the building; or within the immediate site of the building that are in connection with

(i) the means of providing water, power, heat or access to the part,

(ii) the means of providing drainage or security for the part, or

(iii) the provision of means of waste disposal for the part.

(3) In this paragraph –

(a) reference to the carrying out of works to the fabric of a building do not include the incorporation, or installation as fittings, in the building of any goods that are not building materials.

(b) references to the carrying out of works to the fabric of a part of a building do not include the incorporation, or installation as fittings, in the part of any goods that are not building materials.

Meaning of "building materials"

12

In this Group "building materials" has the meaning given by Notes (22) and (234) of Group 5 to Schedule 8 (zero-rating of construction and conversion of buildings).