[2018] UKFTT 350 (TC)

TC06565

Appeal number: TC/2010/05088
TC/2010/06103

Excise duty – ***preliminary issue –jurisdiction of the FTT in relation to excise duty appeals – application of articles 220(2)(b) and 239 of the Community Customs Code to excise duties***

FIRST-TIER TRIBUNAL
TAX CHAMBER

ASIANA LIMITED **Appellant**

- and -

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

TRIBUNAL: JUDGE ABIGAIL MCGREGOR
NIGEL COLLARD

Sitting in public at Taylor House, London on 1 December 2017

Andrew Trollope QC and Jeremy White, instructed by Blick Rothenberg, for the Appellant

David Yates, instructed by the General Counsel and Solicitor to HM Revenue and Customs, for the Respondents

DECISION

Introduction

1. This decision arises from two appeals made by the Appellant, Asiana Limited, against two assessments, made in 2010, for customs and excise duty in respect of imports of Shaoxing cooking wine.

2. This decision relates only to the preliminary issue of, broadly, whether the Tribunal has jurisdiction to hear arguments in respect of the Appellant's legitimate expectation.

Background

3. Despite the assessments having been made in 2010, the appeals have not yet made their way to a substantive hearing due to a number of earlier preliminary hearings and decisions:

(1) Firstly, an application to amend the grounds of appeal, which itself went on appeal to the Upper Tribunal who quashed the decision of the First-tier Tribunal to allow the further grounds of appeal; and

(2) Secondly, an application for the listing of a preliminary issue under rule 5(3)(e) of the Tribunal Procedure (First Tier Tribunal)(Tax Chamber) Rules 2009, which was allowed by Judge Allatt ([2017] UKFTT 393 (TC)) and has resulted in this hearing.

4. The background facts were not investigated to any degree by this Tribunal, but are set out briefly as we understand them to be (and without prejudging any finding of fact in a subsequent tribunal), for the sake of understanding the points at issue:

(1) Asiana Limited (Asiana) had made a number of imports of Shaoxing cooking wine under a particular commodity code that did not give rise to any customs or excise duty during the course of 2006 to 2009;

(2) Asiana asserts that HMRC had provided advice on more than one occasion that this duty free commodity code was the appropriate one, including after cancelling clearance of an import in April 2009; but

(3) HMRC later contended that a different commodity code should have been applied and made the assessments under appeal.

The preliminary issue

5. In the decision on the application for a preliminary hearing, Judge Allatt identified the issues that were requested to be covered (in paras [13]-[16]), that the Appellant:

(1) wishes to rely, for both customs duty and excise duty on Article 220 (2)(b) or on Article 239 of the Community Customs Code (Regulation 2913/92) (CCC);

(2) asserts that excise duty is a customs duty for the purposes of Articles 220 and 239; and

(3) wishes to have HMRC's conduct and the Appellant's legitimate expectation considered under the exercise of this Tribunal's powers and jurisdiction as set out in section 16 of Finance Act 1994 (FA 1994).

6. HMRC accepts that Articles 220 and 239 of the CCC, which, broadly, provide a statutory defence akin to legitimate expectation and a right to have duty remitted in special circumstances respectively, are capable of applying to customs duty; but argue that these provisions do not apply to excise duty.

7. The Appellant, before the hearing on this preliminary issue, accepted HMRC's arguments that excise duty is not a duty with equivalent effect to import duties under Article 4(10) of the CCC.

Legislation

8. Article 220(2)(b) of the CCC provides for a statutory defence in the context of good faith reliance on customs authorities:

> "..subsequent entry in the accounts shall not occur where ..the amount of duty legally owed was not entered in the accounts as a result of an error on the part of the customs authorities which could not reasonably have been detected by the person liable for payment, the latter for his part having acted in good faith and complied with all the provisions laid down by the legislation in force as regards the customs declaration."

9. Article 239 of the CCC provides for duty to be remitted in special circumstances:

> "Import duties … may be ... remitted in situations … resulting from circumstances in which no deception or obvious negligence may be attributed to the person concerned. The situations in which this provision may be applied and the procedures to be followed to that end shall be defined in accordance with the committee procedure. Repayment or remission may be made subject to special conditions."

10. A liability to excise duty on made-wine arises under section 55 of the Alcohol Liquor Duties Act 1979.

11. An assessment by HMRC of excise duty arises under section 12 of FA 1994.

12. FA 1994, s 16 gives the Tribunal different powers depending on the decision under appeal. Both parties agree that the relevant provision giving power to bring an appeal was subsection 1B, which provides:

> "Subject to subsections (1C) to (1E), an appeal against a relevant decision (other than any relevant decision falling within subsection (1) or (1A)) may be made to an appeal tribunal…"

before providing for deadlines, which are not important to this preliminary matter.

13. A 'relevant decision' is defined in FA 1994, s 13A and provides that a relevant decision includes, so far as relevant:

> "(2)(b) so much of any decision by HMRC that a person is liable to any duty of excise, or as to the amount of his liability, as is contained in any assessment under section 12 above;"

14. The powers of this Tribunal on such appeals are set out in subsections 16(4) and (5). 16(4) relates to decisions on ancillary matters – both parties agreed that this was not an ancillary matter and therefore is a decision to which s 16(5) applies, which provides:

> "the powers of an appeal tribunal on an appeal under this section shall also include power to quash or vary any decision and power to substitute their own decision for any decision quashed on appeal."

Questions raised

15. Representatives for both parties gave full submissions, including extensive reference to case law, on a number of matters. For the sake of clarity, we have summarised the issues or questions raised into the following questions. Each of them are addressed below, with reference to the arguments raised by each of the parties:

(1) Is it necessary or allowable to apply the Community Customs Code to excise duties generally, or specifically to apply either or both of Articles 220 or 239 of the CCC to excise duties, as a matter of the coherence of the customs and excise regimes?

(2) What are the powers of the FTT under FA 1994, s 16(5) to consider the principles of legitimate expectation, effectiveness of remedy, rights of a defence and fairness?

Is it necessary or allowable to apply the Community Customs Code to excise duties generally, or specifically to apply either or both of Articles 220 or 239 of the CCC to excise duties, as a matter of the coherence of the customs and excise regimes?

Submissions

16. The submissions on this matter centred on the application of the decision of the CJEU in *Dansk Transport* Case C-230/08.

17. *Dansk* concerned cigarettes that had been smuggled into Denmark and then seized and destroyed by the authorities. The appellant argues that the second question, and the answer given to it by the CJEU, is relevant to these proceedings:

(1) The question is set out in paragraph 67:

> "By its second question, the referring court asks, in essence, whether, where goods are seized on their introduction into the territory of the Community and simultaneously or subsequently destroyed by the competent authorities, the excise duty on those goods is deemed 'to have been placed under a suspension arrangement', for the purposes of the first sub-paragraph of arts 5(2) and 6(1)(c) of the Excise Duty Directive (EC Directive 92/12), read in conjunction with arts 84(1)(a) and 98 of the Customs Code, and art 867a of the Implementing Regulation, with the result that the obligation to pay excise duty on them is not incurred or is extinguished."

(2) The final reasoning given on this second question is as follows:

> "83. Finally, as regards the question whether the extinction of the customs debt under point (d) of the first paragraph of art 233 of the Customs Code affects whether the excise duty incurred on those goods is extinguished, the Excise Duty Directive does not contain any express provision concerning the extinction of the excise duty in the case of unlawful importation of goods.
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> 84. In those circumstances, given the similarities between customs duties and excise duties in that they arise from the importation of goods into the Community and their subsequent distribution through the economic channels of the member states, and in order to ensure a coherent interpretation of the Community legislation at issue, it must be found that excise duty is extinguished in the same way as customs duty.
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> 85. Consequently, as is apparent from para 50 above, in order to lead to the extinction of the excise duty, the seizure or the confiscation of the goods must take place before those goods go beyond the area in which the first customs office inside the customs territory of the Community is situated.
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> 86. Therefore, the answer to the second question is that the third sub-paragraph of arts 5(1) and 6(1) of the Excise Duty Directive must be interpreted as meaning that goods seized by the local customs and tax authorities on their introduction into the territory of the Community and simultaneously or subsequently destroyed by those authorities, without having left their possession, must be regarded as not having been imported into the Community, with the result that the chargeable event for excise duty on them does not occur. Where goods are seized after their unlawful introduction into that territory, namely once they have gone beyond the area in which the first customs office inside that territory is situated, and simultaneously or subsequently destroyed by those authorities, without having left their possession, the excise duty on them is not to be deemed 'to have been placed under a suspension arrangement' for the purposes of the first sub-paragraph of arts 5(2)

> and 6(1)(c) of the Excise Duty Directive, read in conjunction with arts 84(1)(a) and 98 of the Customs Code, and art 867a of the Implementing Regulation, with the result that the chargeable event for excise duty on those goods occurs and, consequently, the excise duty on them becomes chargeable."

18. The appellant submitted that these comments demonstrate that the principles of the CCC are directly applicable to excise duty, notwithstanding that neither the CCC not the Excise Duty Directive contains any express provision on the extinction of the excise duty debt. In particular, the appellant argues that the parallels in the way the charges to customs and excise duty apply; their functions in the importation of goods and the chain of distribution; and the fact that they arise at the same time and in the same way require coherence between the two regimes.

19. The appellant further argued that the CJEU has applied the same approach, for the same reasons, in *Prankl* Case C-175/14 in the context of applying provisions of the CCC to import VAT.

20. The appellant submits that to allow the rights within Article 220 and 239 to apply to customs duty but not to excise duty would be similarly incoherent and not permissible under EU law.

21. HMRC's position is that *Dansk* is not authority for the proposition that any reliefs available under the CCC must also be applicable to excise duty, nor for the application of Articles 220 or 239 specifically, because:

> (1) the second question is considering why 'importation' in the Excise Duty Directive, should be read in the same was as 'introduce' in the CCC; and
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> (2) the conclusion at paragraph 86 merely holds that Articles 5(1) and 6(1) of the Excise Duty Directive must be interpreted as meaning that goods seized and destroyed on their introduction into the territory of the CC must be regarded as not imported.

22. There was also some disagreement as to whether the reasoning at paragraphs 83-85 was an independent finding from that at paragraph 86. The appellant submitted that it was an independent finding on the extinction of customs debts and the applicability of that extinction to excise duties, as compared with the decision in paragraph 86, which concluded that where goods had been found not to have been 'introduced' into the community for customs duties purposes (due to their seizure and destruction by authorities), they must also be found not to have been 'imported' for excise duty purposes. By contrast, HMRC submitted that all the paragraphs formed part of the same decision and that paragraphs 83-85 were the CJEU's consideration of the Excise Duty Directive before coming to its conclusion at paragraph 86.

Discussion

23. *Dansk* is a decision about the extinguishment of a customs debt caused by seizure and destruction of the goods concerned by the authorities and, in the context of excise duties, with the specific issue of the meaning of the timing of import.

24. Articles 5 and 6 of the Excise Duty Directive have clear and specific references to the interaction with the equivalent customs rules and it is clear from the wording of the decision of the CJEU that it is the interpretation of these references that is being addressed.

25. *Dansk* is not concerned specifically with the application of Articles 220 and 239 of the CCC and there is nothing in the reasoning given that would suggest those Articles should be applied indirectly to excise duty arrangements despite, as the appellant concedes, not being directly applied.

26. Equally, we do not accept that *Dansk* is authority for a general proposition that provisions of the CCC must be applied to excise duty for reasons of coherence. The reason for the need for coherence in interpretation in *Dansk* is the presence of specific cross-referral between the two regimes and we see nothing in the judgment of the CJEU in *Dansk*, or in the other CJEU decisions to which the appellant referred, to suggest that the concept of coherence should be applied more generally. There are three tax and duty regimes that apply at the point of importing goods – VAT, customs and excise. There is nothing inherent in the regimes or the jurisprudence of the CJEU that says that they need to cohere unless there is an explicit requirement for it (as is the case in the context of extinguishing duty at the point of introduction and import).

27. For completeness, we do not accept the submission that the reasoning given in paragraphs 83-85 of the CJEU judgment represents a separate finding from that given in paragraph 86. The whole section in paragraphs 67 through to 86 are a piece of discursive narrative explaining the CJEU's considerations in coming to their conclusion on the second question.

28. Given this decision on the application of Articles 220 and 239 to the excise duty regime, a number of subsidiary arguments, such as whether a consideration of Article 220 is part of HMRC's decision on liability and whether it is necessary to make a claim for Article 220 to apply, fall away and we express no opinion on them.

What are the powers of the FTT under FA 1994, s 16(5) to consider the principles of legitimate expectation, effectiveness of remedy, rights of a defence and fairness?

Submissions

29. The appellant submits that:

(1) the FTT's power under section 16(5) includes not only the question of liability and amount, but also HMRC's decision to raise an assessment and whether it was lawful;

(2) in considering the lawfulness of making an assessment in the first place, the taxpayer can (in circumstances such as this one where the tax in question derives from EU law) rely on a number of EU principles, which the FTT has power to consider, including:

(a) fairness and equal treatment, of which the EU principle of legitimate expectation is a subset (which the appellant argues is a different principle from the UK common law principle of legitimate expectation);

(b) the right to a defence (derived from *Cipriani* Case C-395/00, where it was specifically applied in the context of excise duties); and

(c) the principle of effectiveness in the context of a remedy; and

(3) the appellant had a legitimate expectation on which it was entitled to rely on the basis of:

(a) incorrect guidance given by HMRC over the course of various correspondence into the correct treatment of the imported wine; and

(b) the statements set out in the letter from HMRC relating to the application of Articles 220 and 239 (which the appellant argues implies that HMRC were applying those articles to excise duty as well as customs duty).

30. HMRC by contrast submits that the FTT's power is limited to the liability of the person and the amount of the assessment.

31. HMRC further argues that the Upper Tribunal and Court of Appeal have made it clear in a series of cases, *Europlus Trading* [2013] STC 1210, *BT Pension Scheme Trustees* [2015] EWCA 713 and *R&J Birkett* [2017] UKUT 89, that the FTT does not have a general power to consider matters of public law, such as issues of legitimate expectation (whether the UK concept or the EU legal principle), but in each case its powers are to be determined by reference to the specific statutory provisions on which the appeal in question is being brought, i.e. the scope of the FTT's powers in each case is ultimately a question of statutory construction.

32. HMRC argues that the definition of a relevant decision in FA 1994, s 13A(2)(b), 'so much of any decision by HMRC that a person is liable to any duty of excise, or as to the amount of his liability, as is contained in any assessment under section 12 above' is to be contrasted with the introductory wording to FA 1994, s 13A(2)(c). This provides that a relevant decision in other specific contexts includes 'any decision by HMRC to assess any person to excise duty… or as to the amount of duty to which a person is to be assessed under any of those provisions' and that the statute cannot be interpreted to allow the FTT to consider the principle of legitimate expectation.

Discussion

33. Since this is a preliminary hearing on the scope of the FTT's powers, we heard no factual evidence or submissions on the matters that may or may not have given rise to a legitimate expectation and therefore give no opinion on this matter.

34. In *Birkett,* the UT considered the various authorities, including that of the *BT Pension Scheme Trustees* in the Court of Appeal, and established the following principles:

> The principles that we understand to be derived from these authorities are as follows:
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> (1) The FTT is a creature of statute. It was created by s. 3 of the Tribunals, Courts and Enforcement Act 2007 ("TCEA") "for the purpose of exercising the functions conferred on it under or by virtue of this Act or any other Act". Its jurisdiction is therefore entirely statutory: Hok at [36], Noor at [25], BT Trustees at [133].
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> (2) The FTT has no judicial review jurisdiction. It has no inherent jurisdiction equivalent to that of the High Court, and no statutory jurisdiction equivalent to that of the UT (which has a limited jurisdiction to deal with certain judicial review claims under ss. 15 and 18 TCEA): Hok at [41]-[43], Noor at [25]-[29], [33], BT Trustees at [143].
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> (3) But this does not mean that the FTT never has any jurisdiction to consider public law questions. A court or tribunal that has no judicial review jurisdiction may nevertheless have to decide questions of public law in the course of exercising the jurisdiction which it does have. In Oxfam at [68] Sales J gave as examples county courts, magistrates' courts and employment tribunals, none of which has a judicial review jurisdiction. In Hok at [52] the UT accepted that in certain cases where there was an issue whether a public body's actions had had the effect for which it argued – such as whether rent had been validly increased (Wandsworth LBC v Winder [1985] AC 461), or whether a compulsory purchase order had been vitiated (Rhondda Cynon Taff BC v Watkins [2003] 1 WLR 1864) – such issues could give rise to questions of public law for which judicial review was not the only remedy. In Noor at [73] the UT, similarly constituted, accepted that the tribunal (formerly the VAT Tribunal, now the FTT) would sometimes have to apply public law concepts, but characterised the cases that Sales J had referred to as those where a court had to determine a public law point either in the context of an issue which fell within its jurisdiction and had to be decided before that jurisdiction could be properly exercised, or in the context of whether it had jurisdiction in the first place.
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> (4) In each case therefore when assessing whether a particular public law point is one that the FTT can consider, it is necessary to consider the specific jurisdiction that the FTT is exercising, and whether the particular point that is sought to be raised is one that falls to the FTT to consider in either exercising that jurisdiction, or deciding whether it has jurisdiction.
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> (5) Since the FTT's jurisdiction is statutory, this is ultimately a question of statutory construction."

35. The particular statutory language that we have to interpret here is that found in sections 13A(2)(b) and 16(5) of FA 1994, which are set out in full above. In short, we have the power to quash (including power of substitution) or vary 'so much of any decision by HMRC that a person is liable to any duty of excise, or as to the amount of his liability, as is contained in' the assessment.

36. The presence of 'so much of' in the statutory language is important. It expresses very clearly that the scope of the relevant decision is limited and does not encompass all matters related to that decision. HMRC's comparison with FA 1994, s 13A(2)(c), which explicitly includes the decision to assess is both instructive and persuasive.

37. In *Europlus,* Vos J had decided that there was no basis for legitimate expectation, but went on to consider the issue of whether the FTT should have entertained it even if there had been such a basis:

> **"[90]** None the less, since the parties have argued the point, I should state my conclusions briefly. The argument in my judgment largely missed the point. There is plainly authority in the ECJ's decision in *Elmeka* that European law principles can be used to require a national authority to act so as to fulfil a taxpayer's legitimate expectations, even where the exemption from the payment of the tax in question would be unlawful. Moreover, the *Lindsay* decision, to which I have already referred, demonstrates that European law and ECHR principles may in some circumstances be applicable to VAT questions determined by tribunals.
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> **[91]** In my judgment, however, the question is really what these principles are relevant to. The FTT in this case was given a confined jurisdiction by s 16(4) of the Finance Act 1994 'where the tribunal are satisfied that [HMRC] could not reasonably have arrived at [their decision on review]' broadly to (a) direct that the decision is to cease to have effect; (b) require HMRC a further review of the original decision; or (c) to declare the decision to have been unreasonable. Section 16(5) allows the tribunal to quash or vary any decision and to substitute its own decision.
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> **[92]** The appeal to the FTT is, therefore, all about the decision made on review under s 15 of the Finance Act 1994, in relation to the decision made originally by the HMRC under s 14(1)(bc) 'as to whether any person is entitled to any drawback of excise duty by virtue of regulations under section 2 of the Finance (No. 2) Act 1992 …' As the Upper Tribunal made clear in *Noor*, the FTT has no jurisdiction to give effect to any legitimate expectation that the taxpayer may have, because its jurisdiction is statutory. In that case, the FTT was limited to deciding the amount of any input tax that Mr Noor was entitled to under the VAT legislation. In this case, the FTT was limited to quashing the decision not to pay the drawback claimed or substituting its own decision, or declaring that decision to be unreasonable and sending it back to the HMRC for a new decision to be made.
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> **[93]** Had the FTT thought that the decision on review was one that it was 'satisfied that [HMRC] could not reasonably have arrived at', it could presumably have said so even relying on principles of EU law. But it is very hard to see how it could rationally have formed that view when it had already decided that the duty paid condition under the legislation was not satisfied, so that there was no statutory jurisdiction for HMRC to decide to make the drawback payments claimed.

[94] Properly analysed, what the FTT was doing was reviewing the entitlement of HMRC to withdraw its supposed high level policy decision or practice. It found that Europlus (i) had a legitimate expectation that it would receive the drawback, and (ii) that the denial of duty was in conflict with the EU principles of legal certainty and proportionality, and in violation of Europlus's rights under A1P1.

[95] These findings all target the supposed withdrawal of the policy or practice without notice, *not* HMRC's decision on review 'as to whether [Europlus was] entitled to … drawback of excise duty by virtue of regulations under s 2 of the Finance (No 2) Act 1992 …' To challenge the withdrawal of the policy, Europlus needed, in my judgment to bring either (i) judicial review proceedings aimed at the decision to withdraw the supposed policy or practice without notice, or (ii) proceedings for compensation for breach of EU law under the principles and pre-conditions set out in *Francovich v Italian Republic, Bonifaci v Italian Republic* (Joined cases C-6/90 and C-9/90) [1992] IRLR 84, [1991] ECR I-5357, or (iii) proceedings for compensation for breach of A1P1 or any other part of the ECHR. I should not be taken as suggesting that any such proceedings would have been successful. But what the FTT could not do, certainly once it was established that the duty paid condition was not satisfied and the drawback could not be paid under the applicable EU and domestic legislation, was to allow what is in effect a claim for damages or compensation for the withdrawal of the supposed policy or practice without notice, under the guise of a statutory appeal under ss 16(4) and (5) of the Finance Act 1994. The conclusion that this is what the FTT was really doing is made good by two passages at the end of the decision as follows:

> (i) Paragraph [120] said: '[o]ur conclusion is accordingly that the action by HMRC did breach the Appellant's human rights, and that the consequence is that the Appellant's legitimate expectation, that it should have received the refund of duty, should be satisfied and that the entire duty reclaimed should be paid'.
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> (ii) Paragraph [122] included this: '[this case] has been decided by reference to the entire way in which HMRC modified, on a high policy basis, the whole way in which duty drawback claims should be made and evidenced, and it was the way in which that was done that has offended both European principles of certainty and proportionality and the Appellant's human rights'.

[96] In short, the FTT lost sight of the fact that the jurisdiction to review and provide remedies for HMRC's conduct in withdrawing policies unreasonably lies elsewhere.

[97] Accordingly, in the circumstances of this case, I would hold that the FTT was wrong to consider that it had jurisdiction to decide upon breaches of general principles of EU law, certainly so far as those

> breaches were in respect of a supposed policy or practice that was entirely distinct from the entitlement to drawback that was the sole subject of the statutory appeal."

38. The conclusion in paragraphs 95 and 96 of that judgment is a powerful one and the accusation levelled at the FTT could, in our opinion, be equally levelled at this constitution of the FTT if we were to conclude that the appellant should be able to raise arguments based on these EU principles in the context of an assessment to excise duty.

39. We find that there is nothing in the statutory language of sections 13A(2)(b) and 16(5) that could be interpreted as allowing or requiring the FTT to consider matters of legitimate expectation (whether a UK or EU concept of legitimate expectation) in an appeal against an excise duty assessment; and the opportunity for the taxpayer to raise these arguments lies elsewhere.

40. We have sympathy with the taxpayer in that, arguably, a statutory version of legitimate expectation and fairness is set out in Articles 220 and 239 of the CCC and therefore an assessment of those matters in relation to customs duty is available in the FTT, whereas we are concluding that they cannot be raised (either in the guise of those Articles specifically or under more general principles) in the same appeal in relation to the excise duty assessment.

41. The appellant raised concerns about the effectiveness of the remedy and in particular about the multiplicity of proceedings required. However, we do not think that this advances their case. The fact that statute limits the remedies available in one court or tribunal, while providing other remedies in different courts or tribunals is something within the power of Parliament. There are a number of other examples where a single set of facts can give rise to more than one proceeding, for example on the seizure of goods by the Border Force, where a challenge to the seizure must be made in the magistrate's courts but a challenge to the refusal to restore must be made in the FTT. We do not consider that these statutory divisions are so arbitrary or unfair as to render the remedies available to the appellant ineffective.

Decision

42. For the reasons set out above, we find that:

(1) Articles 220(2)(b) and 239 of the CCC do not apply to excise duty in the same way that they do to customs duty; and

(2) The FTT does not have the power under section 16(5) of FA 1994 to consider matters of legitimate expectation on an appeal against an excise assessment made under section 12 of FA 1994.

43. This document contains full findings of fact and reasons for the preliminary decision. Any party dissatisfied with this preliminary 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. However, either

party may apply for the 56 days to run instead from the date of the decision that disposes of all issues in the proceedings, but such an application should be made as soon as possible. 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.

ABIGAIL MCGREGOR
TRIBUNAL JUDGE

RELEASE DATE: 26 JUNE 2018