TC07143

COSTS – complex case – costs payable by respondents following withdrawal of decisions under appeal - application for indemnity costs – application refused

FIRST-TIER TRIBUNAL
TAX CHAMBER

Appeal number: TC/2017/01357

BETWEEN

AD HOC PROPERTY MANAGEMENT LIMITED **Appellant**

-and-

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

TRIBUNAL: JUDGE JONATHAN CANNAN

Sitting in public in Manchester on 15 February 2019

Ms Charlotte Brown of counsel instructed by Lang & Horgan Chartered Tax Advisers for the Appellant

Mr Sarabjit Singh QC instructed by HM Revenue and Customs Solicitor's Office and Legal Services for the Respondents

DECISION

INTRODUCTION

1. This is an application by the appellant for its costs of and incidental to the appeal to be paid by the respondents on the indemnity basis. The appeal itself was determined in July 2018 following an earlier withdrawal by the respondents of the assessments under appeal. The appeal had been categorised as a complex case and the parties are agreed that the respondents should pay the appellant's costs of the appeal and that those costs should be the subject of a detailed assessment if not agreed. The dispute between the parties is as to the basis on which the appellant's costs should be assessed.

2. The assessments under appeal ("the Assessments") were an amended assessment made on 26 January 2017 covering VAT periods 8/12 to 12/15 in the sum of £2,597,435 and an assessment made on 8 March 2017 covering VAT periods 03/16 to 12/16 in the sum of £780,826. The total sum in dispute on the appeal was approximately £3.4m.

3. The Assessments arose out of the appellant's business in which it made arrangements with individuals known as "property guardians" to occupy vacant properties owned by third party clients. These were tripartite arrangements involving property owners, the appellant and the property guardians, with property guardians paying fees to the Appellant in return for a right to occupy the premises.

4. The respondents considered that supplies made by the appellant to property guardians were not the letting of immovable property which would be exempt from VAT pursuant to Article 135(1)(l) Principal VAT Directive and Item 1 Group 1 Schedule 9 Value Added Tax Act 1994. The key characteristic of exempt supplies is the right of the occupier to exclude other persons from enjoyment of occupation. The appellant contended that the supplies were exempt under those provisions. The respondents had previously accepted the appellant's treatment in 2009. In a nutshell, the Assessments were made on the basis that:

   (1) the appellant did not have sufficient interest in the properties to make a supply of land, and

   (2) the appellant was not making a supply of the exclusive use of the premises.

5. The appellant instructed PwC who requested a review of the Assessments. Following the statutory review procedure the appellant appealed to this tribunal by notices of appeal dated 3 February 2017 and 5 April 2017. The appellant applied for the appeals to be entertained without the payment of the VAT in dispute on the grounds of hardship and the respondents agreed hardship on 18 August 2017. The Respondents then served their statement of case on 2 November 2017 and on 5 December 2017 the tribunal gave case management directions requiring lists of documents, witness statements and listing information. The tribunal also notified the parties that the appeals had been consolidated and that the consolidated appeal had been categorised as a complex case. The appellant did not opt out of the costs regime, which meant that in the ordinary course costs would be payable by the losing party when the appeal was finally determined.

6. On 6 December 2017 the appellant applied for and was granted permission to amend its grounds of appeal to include arguments based on fiscal neutrality. As a result, the respondents served an amended statement of case on 26 January 2018.

7. Both parties complied with the requirement to serve lists of documents on 26 January 2018. The appellant served witness statements as required on 23 February 2018 from Mr Joan de Neve, a director of the appellant, and Mr Mark Westley, one of the property guardians.

8. The respondents were due to serve their witness statements on or before 23 March 2018. In the event they requested an extension of time until 20 April 2018, but by an email sent on that date the respondents indicated that they did not intend to rely on any witness evidence. In fact, on 24 April 2018 the respondents wrote to the appellant to say that they intended to withdraw the Assessments.

9. There was then a period of time until 13 July 2018 whilst the parties corresponded over the procedural mechanism by which the appeal would be concluded. I do not need to recite that correspondence. In the end the respondents notified the tribunal on that date that they had withdrawn the Assessments and the appeal was treated as closed.

10. The present application was made on 16 August 2018. Following a direction of the tribunal the respondents served detailed grounds of objection to the application on 20 November 2018 and the appellant served a detailed reply to those grounds of objection on 20 December 2018. The application was then listed for an oral hearing. The issues which arise for determination on this application may be summarised as follows:

(1) Should the appellant's costs of the appeal be assessed on the indemnity basis or the standard basis?

(2) Should there be a direction for the respondents to make an interim payment on account of costs?

(3) What direction should be made in relation to the costs of this application?

11. I shall deal with those issues separately.

STANDARD COSTS OR INDEMNITY COSTS

12. The parties agreed the relevant principles to be applied in considering whether costs should be assessed on the standard or the indemnity basis. In particular it was agreed that the same principles operate as apply under the Civil Procedure Rules Part 44 and the Practice Direction to Part 44. In practical terms the difference between standard costs and indemnity costs is described in Part 44 and may be summarised as follows:

(1) Where costs are assessed on the standard basis, the court will disallow any costs which are unreasonably incurred, unreasonable in amount, are disproportionately incurred or are disproportionate in amount. Any doubt as to whether costs are reasonable or proportionate is to be resolved in favour of the paying party, in this case the respondents.

(2) Where costs are assessed on the indemnity basis it is only costs which are unreasonably incurred or unreasonable in amount which will be disallowed. There is no reference to whether the costs are proportionate to the importance of the case, the amount at stake, the complexity of the issues or the financial position of the parties. Further, any doubt as to whether costs are reasonable is to be resolved in favour of the receiving party, in this case the appellant.

See the summary of Judge Berner in *Bowcombe Shoot v HM Revenue & Customs [2011] UKFTT 64 (TC)*

13. Costs may be awarded on an indemnity basis where the litigation has been conducted in a way which is "unreasonable to a high degree" which takes the case "out of the norm". Both parties were content to rely on the description of the conduct which will justify indemnity costs in *Excelsior Commercial & Industrial Holdings Ltd v Salisbury Hammer Aspden, & Johnson [2002] EWCA Civ 879* endorsing what was said by Simon Brown LJ in *Kiam v MGN (No 2) [2002] EWCA Civ 66* at [12]:

> "12. … [The] conduct would need to be unreasonable to a high degree; unreasonable in this context certainly does not mean merely wrong or misguided in hindsight. An indemnity costs order made under Rule 44 (unlike one made under Rule 36) does, I think, carry at least some stigma. It is of its nature penal rather than exhortatory."

14. There was some discussion as to what is meant by "the norm". Mr Singh submitted that it was "everyday unreasonableness". I am content to adopt the description given by Judge Berner in Bowcombe Shoot as follows:

> "43. In order to determine if conduct, or a circumstance, is outside the norm it is first necessary to consider what constitutes the norm. That will depend upon the nature of the case and the particular circumstances. There can be no single criterion or set of criteria that defines the norm in a given case. There is likely to be a range of circumstances and conduct and behaviour all of which can be regarded as within the norm in a particular case, some of which may be closer to the unreasonable than others, but none of which is unreasonable to such a high degree as to merit the stigma that attaches to an award of indemnity costs."

15. Further, in considering whether there has been unreasonable conduct to a high degree I should be wary of placing too much weight on the fact that the respondents effectively capitulated. The reason for this was given by Barling J in *Catalyst Investment Group v Lewinsohn [2009] EWHC 3501 (Ch)*:

> "34. … I remind myself that all other things being equal, I should be rather wary of placing much weight on the mere fact of capitulation by the defendants. To rely upon such capitulation as a factor pointing to a less favourable basis of assessment of costs for the party capitulating could be seen as non-conducive to achieving early resolution of litigation, and inconsistent with the overriding objective. One must also bear in mind that there can be many reasons for abandoning proceedings."

16. Similarly, in *Arcadia Group Brands Ltd v Visa Inc [2015] EWCA Civ 883* a judge had ordered the claimants to pay indemnity costs on the basis that their claims were bound to fail. That order was overturned by the Court of Appeal where the Chancellor stated:

> "83. The Judge had a wide discretion as to costs but I consider that, in awarding costs on the indemnity basis rather than the standard basis, the Judge made an error in principle. The weakness of a legal argument is not, without more, justification for an indemnity basis of costs, which is in its nature penal. The position might be different if proceedings or steps taken within them are not only based on a plainly hopeless case but are motivated by some ulterior commercial or personal purpose or otherwise for purely tactical reasons unconnected with any real belief in their merit."

17. I was also referred to what was said by Sir Anthony Colman in *National Westminster Bank plc v Rabobank Nederland [2007] EWHC 1742 (Comm)* at [28]:

> "28. Where one is dealing with the losing party's conduct, the minimum nature of that conduct required to engage the court's discretion would seem, except in very rare cases, to be a significant level of unreasonableness or otherwise inappropriate conduct in its widest sense in relation to that party's pre-litigation dealings with the winning party or in relation to the commencement or conduct of the litigation itself. … in each case in which the costs of the whole litigation are under consideration, the conduct adversely criticised must be looked at in the context of the entire litigation and a view taken as to whether the level of unreasonableness or inappropriateness is in all the circumstances high enough to engage such an order."

18. The reference to "pre-litigation dealings" would doubtless encompass compliance in civil procedure with any pre-action protocols which have no equivalent in tax tribunal procedure. However, I accept that the respondents conduct prior to an appeal to the tribunal is relevant in the context of the present application (see Judge Berner in *Curran v HM Revenue & Customs [2012] UKFTT 655 (TC)* at [16]. I must consider all the circumstances.

19. The appellant's case is that the respondents' conduct of the appeal is outside the norm and has been unreasonable to a high degree. In particular Ms Brown submitted as follows:

(1) In the normal course specialist officers of the respondents should have considered the merits of the Assessments at the time they were issued, when the statutory review took place and when the appeal was lodged with the tribunal. At the time the appeal was lodged specialist legal advice should have been taken. Reliance was placed on *Carvill v Frost [2005] SCD 208*.

(2) PwC had provided a detailed explanation of the circumstances in which the supplies were made. This included a description of how the factual and commercial realities differed from the written terms and conditions on which property guardians occupied the properties, together with supporting documentary material.

(3) The respondents should have used their wide powers of investigation to elicit facts and evidence at the time of raising the Assessments rather than waiting until witness statements were provided in the appeal process. An analogy was drawn with the position in relation to closure notices described in *Steven Price v HM Revenue & Customs [2011] UKFTT 624 (TC)*.

20. In essence, Ms Brown's submission was that the respondents' failure to address the evidence until a very late stage in the proceedings amounted to unreasonableness to a high degree taking the case outside the norm. It was not the case that the respondents did not have the relevant evidence until the witness statements were served. The material provided in the appellant's witness statements by way of documentation and explanation had previously been provided by PwC in 2016 or was simply further examples of the same type of material.

21. Before considering Ms Brown's submissions, I should set out the circumstances in which the respondents came to withdraw the Assessments, as described by Mr Singh. The respondents obtained advice in conference with Mr Singh on 11 April 2018. His advice was as follows:

(1) In finding whether the appellant's supplies constituted the letting of immovable property the tribunal would treat the contractual documentation as the starting point and then consider whether the position established by the contracts represented the economic reality. In doing so, the tribunal would place weight on the appellant's witness evidence as to what happened in practice.

(2) It was clear from Mr de Neve's evidence that property owners authorised the appellant to grant the right to occupy their properties to property guardians. Whilst the licences granted indicated that property guardians did not have exclusive use or enjoyment of any part of the premises, the evidence of Mr de Neve was that in reality the property guardians did have exclusive use of part of the premises. That evidence was corroborated by the evidence of Mr Westley.

(3) The tribunal was likely to accept that the arrangements were a letting of immovable property and the appeal was therefore likely to succeed.

22. Following the conference, based on Mr Singh's advice and in accordance with the respondents' litigation settlement strategy, the respondents decided to withdraw the Assessments. They notified the appellant on 24 April 2018.

23. Ms Brown suggested that by referring to Mr Singh's advice the respondents must be taken to have waived privilege in that advice. In her written submissions she reserved the right to seek disclosure of the advice. In the event no application for disclosure was made. Whilst recognising that I do not have the full context in which the advice was given, I accept Mr Singh's description of his advice at face value.

24. The initial correspondence from PwC was dated 12 April 2016 and gave a detailed description of the Appellant's business and the supplies in question, including the way in which properties were occupied by property guardians in practice. Relevant documents supporting what was said were annexed to the letter. HMRC already had copies of written licence agreements. PwC also set out in detail by reference to case law their legal arguments in favour of the exempt treatment adopted by the Appellant. There was no response to that letter before the first assessment was made, apparently on 10 May 2016. A response to the letter was sent on 26 September 2016 following a review of the position by HMRC's policy section. The response appears to have been limited to the contractual documentation and confirmed the assessments. It did not address PwC's description of what happened in practice and I accept it ought to have done so.

25. PwC replied on 22 November 2016 seeking a review of the decision to confirm the assessment. Again, this was a detailed letter referring to the commercial reality of the arrangements with further supporting documents. In particular it was asserted that HMRC's decision ignored the facts and commercial realities of the transactions and was based only on the contracts.

26. The review decision is dated 5 January 2017. It set out the basis of the assessment, the arguments raised by PwC and expressly states that the reviewer has taken into account both the written contracts and the reality of the arrangements. The reviewer concluded that the supplies were standard rated and subject to a slight amendment the assessment was confirmed. Shortly afterwards the second assessment was made.

27. Notice of appeal to the tribunal was lodged on 3 February 2017. The grounds of appeal were (1) that the appellant did not have sufficient interest in the properties to grant any interest to the property guardians, and (2) any interest granted to the property guardians did not satisfy the requirements for exemption. The appellant subsequently amended its grounds of appeal to add a ground asserting that the decision to refuse exemption breached the principle of fiscal neutrality.

28. HMRC's statement of case was served on 2 November 2017 and an amended statement of case to address fiscal neutrality was served on 24 January 2018. The amended statement of case set out the issues in relation to the three grounds of appeal. In relation to the second ground of appeal the statement of case focussed on the terms of the licence agreements and made no mention of commercial reality. I accept it ought to have done so.

29. The witness statement of Mr de Neve dated 22 February 2018 set out background to the appellant's business and gave detailed evidence as to how the arrangements worked in practical terms. It included a video which was on the appellant's list of documents but which had not previously been provided to HMRC. Mr Westley's witness statement dated 12 February 2018 set out the circumstances in which he occupied various properties at various times as a property guardian.

30. Mr Singh referred me to the written licence agreements. It was not disputed that if the written licence agreements were looked at in isolation then the supplies made to property guardians would not meet the conditions for an exempt supply. He submitted that the two issues which formed the appellant's original grounds of appeal were not straightforward. If they had been, then he submitted that the appellant would have applied to bar the respondents from taking further part in the proceedings under Tribunal Rule 8(3)(c) on the basis that there was no reasonable prospect of defending the appeal. Mr Singh pointed out that there had been no such application by the appellant. In theory Mr Singh is right, but I do not accept that the absence of such an application weakens the appellant's submissions. I must consider those submissions on their merits.

31. Mr Singh emphasised the nature of the advice the respondents had received following service of the appellant's witness statements. That advice was not that the respondents would lose the appeal, but that it was likely they would lose. In particular it was likely that the appellant would persuade a tribunal that the appellant had a right to grant licences to the property guardians and despite the written licence agreements that the property guardians had exclusive possession for the purposes of exemption.

32. Mr Singh accepted that in substance there was nothing in the witness statements which had not been described previously in the PwC correspondence and the documents annexed thereto.

33. The question I must decide is whether the respondents ought to have realised much earlier that the tribunal was likely to allow the appeal and withdrawn the assessments, and whether that amounts to unreasonable conduct to a high degree so as to justify an order for indemnity costs. In doing so, I must be cautious to avoid reliance on the benefit of hindsight. Ms Brown accepted that the mere fact the respondents had capitulated was not sufficient to justify indemnity costs. However, she submitted that the reason for the capitulation in this case was evidence which had been available to the respondents since 2016.

34. Mr Singh relied on Arcadia Group Brands Ltd for a submission that even persisting to trial with a hopeless case would not necessarily give rise to an indemnity costs order. The other party would have their remedy of costs on the standard basis. In my view much will depend on the circumstances in which a party persists to trial and there is no general rule. Suffice to say that in this case there is no suggestion of any ulterior motive on the part of the respondents. I do accept that advancing a case which is difficult or ultimately unlikely to succeed is not a sufficient reason for an award of indemnity costs.

35. At the heart of the appeal was the view that should be taken of the commercial reality of the arrangements with property guardians. That is very much a value judgment and from the evidence I have seen different people could reach different conclusions. In the review letter an officer addressed his mind to the commercial reality of the arrangements. I do not consider that HMRC should be criticised for maintaining the Assessments at that stage, or indeed when the appeals were lodged. The decision in a case such as this is rarely cut and dry. Mr Singh's advice was not that the respondents would lose the appeal, but that it was likely that they would lose the appeal. It could not be suggested that the respondents' case was hopeless.

36. Mr Singh did not accept that HMRC should have withdrawn the decisions even before the appeal was lodged. In particular, he submitted that when it came to the crunch the appellant may not have been able to make good the factual assertions in the PwC correspondence. In this respect the witness statements were crucial and HMRC were entitled to defend the appeal until they had sight of the witness statements. I accept that submission. In this case the witness evidence would have been crucial. In my view HMRC were reasonably entitled to maintain their defence of the appeal at least until they had sight of the appellant's witness statements. It might even be argued that they would be entitled to defend the appeal to a final hearing to satisfy themselves that the witnesses came up to proof. I do not consider that the respondents were unreasonable, and certainly not to the necessary high degree, to maintain the Assessments until sight of the appellant's witness statements.

37. Ms Brown relied on Carvill v Frost but in my view it is of limited assistance. The case did concern a situation where the Inland Revenue withdrew from proceedings and there are similarities with the present circumstances. However, it was applying a different test. It was not concerned with indemnity costs, but with costs before the Special Commissioners which generally were not payable unless a party had acted "wholly unreasonably" in connection with the proceedings. I do not consider that the phrase "wholly unreasonably" in that context equates

to unreasonableness to a high degree in the context of indemnity costs. Indeed, the Special Commissioners observed at [14] that the word "wholly" was used "in an emphatic sense". There are also similarities with the circumstances in which HMRC withdrew its assessments in The Bowcombe Shoot referred to above where Judge Berner refused to order costs on an indemnity basis. However, it seems to me that each case must be considered on its own facts.

38. I accept that some criticism may be levelled at the respondents' conduct. For example, their response on 26 September 2016 and their Statement of Case did not engage with arguments based on commercial reality. However, taking into account the principles and guidance given in the authorities and the circumstances as a whole in which the respondents came to withdraw the Assessments, I do not consider that an order for indemnity costs would be appropriate. I am not satisfied that there was unreasonableness to a high degree or that the conduct in this was outside the norm. The application for indemnity costs is therefore refused.

PAYMENT ON ACCOUNT OF COSTS

39. Tribunal Rule 10(7A) provides for payments on account of costs as follows:

> "7A. Upon making an order for the assessment of costs, the Tribunal may order an amount to be paid on account before the costs or expenses are assessed."

40. In the ordinary course there would be no objection to a direction for a payment on account of costs pursuant to Rule 10(7A). The rationale for payments on account was described by Jacob J as he then was in *Mars UK Ltd v Teknowledge Ltd [1999] EWHC 226 (Pat)* as follows:

> "8. …Where a party has won and has got an order for costs the only reason that he does not get the money straightaway is because of the need for a detailed assessment. Nobody knows how much it should be. If the detailed assessment were carried out instantly he would get the order instantly. So the successful party is entitled to the money. In principle he ought to get it as soon as possible. It does not seem to me to be a good reason for keeping him out of some of his costs that you need time to work out the total amount. A payment of some lesser amount which he will almost certainly collect is a closer approximation to justice. So I hold that where a party is successful the court should on a rough and ready basis also normally order an amount to be paid on account, the amount being a lesser sum than the likely full amount."

See also *Curran v HM Revenue & Customs [2012] UKFTT 655 (TC)*.

41. The total costs claimed in the appellant's schedule of costs amount to £539,105 including VAT. The appellant seeks a payment on account of costs of £270,000 which is approximately 50% of the costs claimed.

42. The respondents object to such a payment on account, and indeed any payment on account at all. Mr Singh submitted that it is impossible to know from the appellant's schedule of costs even roughly what amount of costs might reasonably and proportionately be payable following a detailed assessment. For the reasons I have given, that assessment will be on the standard basis.

43. Mr Singh submitted that the costs claimed are grossly excessive and on the face of the schedule include sums which were unreasonably incurred and unreasonable in amount. He submitted that the appellant would not get anywhere near the 50% it seeks as a payment on account. In particular, Mr Singh pointed to sums claimed for:

(1) Work carried out prior to 30 June 2016.

(2) Work said to have been carried out by PwC and a firm of Dutch tax lawyers called DHK neither of whom represented the appellant for the purposes of the tax appeal. The work carried out by DHK included 174 hours of personal attendances with the appellant.

(3) 1,257 hours of "work on documents" by seven different fee earners. This included 199 hours of work in relation to the hardship application and 211 hours described as "Authorisations/Licence Agreements/ Brochures/Deposits".

(4) 89 hours described as "Skeleton and Legal Research".

44. Ms Brown submitted that the costs claimed were those costs of and incidental to the appeal including the costs of the statutory review procedure where PwC was involved. Dutch lawyers were also used for advisory purposes given that the appellant is Dutch owned. There was some discussion before me as to what costs might properly be regarded as incidental to the proceedings but it is not necessary for me to consider that matter for the purposes of this decision. It can be raised in the detailed assessment.

45. Ms Brown accepted that the sums described as "Authorisations/Licence Agreements/ Brochures/Deposits" were not properly recoverable as costs. The reference to "Skeleton and Legal Research" was said to be legal research for a "position paper" which had been called a skeleton argument. Ms Brown submitted that the costs claimed had to be seen in the context of a business based in the Netherlands where the decisions if unchallenged would mean that the appellant's business model would not be viable.

46. It is a cause of some concern that a claim for costs should include 211 hours of work amounting to £30,000 which was not properly recoverable as costs. I also find somewhat remarkable in the context of the issues in this appeal the amount of time sought to be recovered in relation to "work on documents". Ms Brown described the 1,257 hours spent on documents as equivalent to 157 working days. The description in terms of working days does not to my mind make it any less remarkable. The appellant's list of documents was 3 pages long and contained 60 items. It is also notable that 199 hours were spent by 4 lawyers working on a hardship application where, having made the application to HMRC the hardship application was immediately accepted. I also have concerns that there may have been some element of duplication in the work involved, given the costs claimed in relation to work done by PwC and DHK. There may be good explanations for all these matters, but that will be a question for the detailed assessment.

47. I am driven to agree with Mr Singh that based on the schedule of costs it is impossible to say with any degree of confidence what level of costs will ultimately be recovered by the appellant. I can however bring my own experience to bear of litigation before this tribunal involving complex cases of this nature. I appreciate the amount of work that goes in to advising the client, instructing counsel, preparing a notice of appeal, considering the documentation and drafting and finalising witness statements. I have considered the issues involved, and the witness statements and documents relied on by the appellant. Based on my experience and applying a broad brush it is unlikely that the level of fees and disbursements in a case such as this would be less than £50,000.

48. In the circumstances I shall direct a payment on account of £50,000. For the avoidance of doubt this takes into account the direction I make below in relation to the costs of this application. I should add that nothing I have said here based on what is a summary schedule of costs should influence the detailed assessment that will no doubt be required.

THE COSTS OF THIS APPLICATION

49. This is a complex case and the costs of this application would normally follow the event. The appellant's application for indemnity costs has been refused and whilst I have made an order for a payment on account of costs it is substantially less than that sought by the appellant.

50. The appellant's principal objection to a direction for the costs of this application is that there was no need for an oral hearing and that it could have been dealt with on paper. I do not

accept that submission. It is true that the appellant was content for the application to be dealt with on paper whilst the respondents wanted an oral hearing. I directed that there should be an oral hearing in light of the issues raised and the amount of costs involved. The hearing itself lasted the best part of a day. I am satisfied that an oral hearing was appropriate.

51. In the circumstances I direct that the appellant should pay the respondents their costs of the application, to be subject to a detailed assessment if not agreed.

DIRECTIONS

52. For the reasons given above I direct as follows:

(1) The respondents shall pay the appellant's costs of the appeal on the standard basis to be the subject of a detailed assessment if not agreed.

(2) The respondents shall make a payment on account of those costs of £50,000.

(3) The appellant shall pay the respondents costs of this application on the standard basis to be the subject of a detailed assessment if not agreed.

RIGHT TO APPLY FOR PERMISSION TO APPEAL

53. 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.

JONATHAN CANNAN
TRIBUNAL JUDGE

RELEASE DATE: 16 MAY 2019