EXCISE DUTY- Registered Dealer in Controlled Oils-HODA 1979 s100G - CEMA 1979 - Hydrocarbon Oil (Registered Dealers in Controlled Oil Regulations) 2002 - removal of approval - whether reasonable - yes - Appeal dismissed

FIRST-TIER TRIBUNAL
TAX CHAMBER

Appeal number: TC/2017/08774

BETWEEN

KAST ENTERPRISES LIMITED T/A LAVERY'S FILLING STATION **Appellants**

-and-

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

TRIBUNAL: JUDGE ANNE SCOTT
CELINE CORRIGAN

Sitting in public at Belfast on 1 and 2 July 2019

Mr Michael Tierney BL, for the Appellant

Ben Elliott, Counsel, instructed by the General Counsel and Solicitor to HM Revenue and Customs, for the Respondents

DECISION

INTRODUCTION

1. This appeal concerns the respondent's ("HMRC's") decision dated 21 August 2017 to revoke the appellant's approval as a Registered Dealer in Controlled Oils ("RDCO") which decision was upheld on review on 10 October 2017. That decision was made in terms of Section 100G of the Customs & Excise Management Act 1979 ("CEMA").

2. The questions for the Tribunal were:

(a) Were HMRC's decisions that the appellant was not a fit and proper person to hold a licence as a RDCO and therefore to revoke the approval to do so, ones that could reasonably have been arrived at and proportionate?

(b) Did the officers take into account all relevant considerations and leave out of account all irrelevant considerations?

The appellant's Notice of Appeal and Grounds of Appeal

3. As detailed in the Notice of Appeal the appellant raised three Grounds of Appeal, namely:-

(1) The decision to revoke the appellant's RDCO was disproportionate in the circumstances of the case.

(2) Careful analysis of the evidence upon which HMRC based its decisions does not support the conclusion that the appellant was not a fit and proper person and thus the decision and the review decision were neither reasonable nor proportionate.

(3) The requirements placed on the appellant in terms of the information to be requested/obtained by the appellant in the course of the business were unduly onerous and moreover raised concerns in respect of the Data Protection Act 1998 ("DPA").

4. Very appropriately, in light of Judge Poole's guidance dated 14 September 2018, Mr Tierney, who had only recently been instructed in this matter, conceded that he withdrew the third Ground of Appeal.

HMRC's submissions

5. HMRC argue that the decision to revoke the appellant's RDCO approval was correct both in fact and law and was proportionate and certainly was one that could reasonably have been arrived at within the meaning of Section 16(4) of the Finance Act 1994 ("FA 1994").

6. The threshold of unreasonableness is a high one reflecting the fact that the management of the excise system, including whether a RDCO remains a fit and proper person, is a matter for the administrative discretion of HMRC. The decision to revoke the approval was reasonable and proportionate and it was legitimate for HMRC to take account of:-

(a) The appellant's persistent failure to comply with the conditions imposed in the approval issued on 8 March 2017.

(b) The formal warnings and guidance that the business had received, which still did not result in compliance.

(c) The previous non-compliance which related both to record-keeping and customers being permitted to fill road vehicles with rebated fuel.

The facts

7. The appellant was incorporated on 30 November 2011 and prior to its incorporation a partnership, Lavery's Filling Station ("the Partnership") carried on the business of running a

filling station and general store. The Partnership was VAT registered and was approved as an RDCO on 11 July 2001. Under its approval the Partnership was entitled to make sales of rebated fuel, in particular kerosene and marked gas oil known as "red diesel", to customers for domestic use in certain vehicles known as excepted vehicles, but not for use in road vehicles. The Partnership also made sales of duty paid fuel to customers for use in road vehicles.

8. That approval specified the following "Specific Conditions of Approval":-

(1) Compliance with the requirements of paragraph 2.6 of Notice 192,

(2) Timeous submission of monthly returns (HO5), and

(3) "You must regularly check that your customers are properly entitled to receive the oil in accordance with Notice 192." Oil in that context is red diesel and kerosene.

9. On 25 November 2012, (the "November incident") Officer Caldwell witnessed the driver of a road vehicle attempting to fuel with red diesel at the Partnership's premises ("the Filling Station"). The red diesel pump had not yet been authorised by the appellant's staff when the driver was challenged but it was confirmed that there was red diesel already in the vehicle. The vehicle was seized and restored on payment of the restoration fee.

10. On 15 January 2013, (the "January incident") Officer Caldwell witnessed the driver of a road vehicle fuelling with red diesel at the Filling Station. The vehicle was seized and restored on payment of the restoration fee. The shop assistant was warned that she could not permit red diesel to be put directly into road vehicles and any future incident could result in the fuel being seized and removed.

11. The staff member concerned was subsequently disciplined and her employment terminated in accordance with the terms of her contract of employment.

12. On 20 March 2013, the appellant having cancelled two previous visits, Officer Connell conducted a pre-arranged visit (the "March visit") to the Filling Station to check the accuracy of its RDCO returns and on 27 March 2013, issued a formal warning letter to the business referring to the irregularities identified in the course of that visit. In particular, that letter stated that:-

(1) Prior to the visit, two customers had filled road vehicles with rebated fuel (in fact it was later established that the November incident was only an attempt), and

(2) The officer had been unable to establish the accuracy of the Partnership's RDCO returns as it was unable to produce its primary records for individual sales of rebated fuel. Those records were statutory records and keeping them was an obligation under Excise Notice 192.

13. HMRC decided not to issue a penalty but warned that future failures could result in the revocation of the RDCO approval and that the failure to retain primary records was of serious concern.

14. In or around March 2013 a restructuring of the businesses took place and the Filling Station ceased to be managed by the Partnership and instead was run by the appellant. Mr and Mrs Lavery were the controlling minds of both. On 1 March 2013, the Partnership deregistered for VAT and seized to exist. HMRC were not notified of the change in VAT registration number or of the change of entity as required by paragraph 4.6 of Notice 192.

15. On 26 April 2016 (the "April incident"), Officer Caldwell witnessed a car owned by Mrs Lavery being fuelled with red diesel at the Filling Station. The driver of the vehicle threw the fuel pump to the ground, jumped into the vehicle and drove away. The pump had dispensed 8.85 litres at a cost of £4.07. The shop assistant told the officer that the driver had told her that

he had a drum to fill with fuel. The officer warned that if there was any recurrence the appellant would lose RDCO approval.

16. On 26 October 2016, (the "October visit") Officer Caldwell and Officer O'Hare made a pre-arranged visit to the Filling Station to check the accuracy of the appellant's RDCO returns and discrepancies were identified. Mr Lavery stated that the business was still a partnership and there was no "own use" of rebated fuel. In fact, Mr Lavery does use red diesel.

17. Both officers state that Mr Tony Lavery, the owner and director of the appellant, admitted that he had been the driver of the vehicle that had been filled with red diesel on 26 April 2016. He denies that he stated that and alleges that it was his brother who was driving on that occasion.

18. On 7 November 2016, HMRC identified the fact that the RDCO approval related to the Partnership which had deregistered for VAT and that the business was being carried on by the appellant. It is not possible to transfer the RDCO number so a change in legal entity means that the new entity must make a new application for approval.

19. On 8 December 2016, HMRC wrote to cancel the Partnership's RDCO approval stating that the RDCO was connected only to the Partnership's VAT number. Accordingly the business had been trading under an invalid RDCO number.

20. On 20 December 2016, the appellant applied for a new RDCO approval.

21. On 27 January 2017, Officer O'Hare made a pre-approval visit to the Filling Station in relation to that application. She warned the appellant that she would not be recommending approval but that it was not her decision. She pointed out that if approval was granted there was a possibility that there would be conditions attached. She also issued a letter detailing each of the irregularities identified during the October visit.

22. She then made a recommendation to HMRC's Mineral Oil Release Centre ("MORC") that the application for a further approval should be refused due to the history of the case and failure to comply with the RDCO scheme.

23. On 8 March 2017, Officer Elliott, having decided to give the appellant what he described as "a last chance to prove that he could fulfil the obligations", wrote to advise the appellant that the application for RDCO approval had been approved. That letter referred to the previous irregularities and in light of those irregularities the company's RDCO approval was to be subject not only to the requirements of Excise Notice 192 but also to an additional condition:-

> "You must record and keep the following details for ALL supplies you make, not just those over 100L, and these must be made available to HMRC officers upon request:
>
> - Name and address of customer, including postcode,
> - Vehicle registration number
> - Vehicle make and model
> - Quantity by type of fuel
> - Date of supply
> - Terms of payment
> - Price paid
> - Customer's stated use,
> - VAT number if registered.
>
> This information is to be submitted on a weekly basis to …".

24. That information was required to be submitted on a weekly basis to HMRC starting from the date of approval. Those additional weekly returns should have been received by the following Friday for the previous week, being Monday to Sunday. Those returns were in

addition to the monthly HO5 RDCO returns. HMRC undertook to review the conditions after six months.

25. The company had the right to request a review or appeal against this decision including the conditions imposed but did not do so.

26. Officer Elliott confirmed to the Tribunal that identical conditions were imposed on other taxpayers and that they had managed to comply with the conditions.

27. On the same day Officer Maughan wrote to the appellant enclosing the Certificate of Approval as RDCO. That approval stated that it was subject to compliance with Notice 192, and submission of monthly returns. It was a specific condition that if red diesel was supplied for use in private pleasure craft then HMRC should be notified, the duty collected by the appellant and returned to HMRC. Lastly, it was the appellant's responsibility to check that customers were entitled to receive the red diesel and kerosene.

28. There were therefore three items of post from HMRC in total and they were all placed in the same envelope which was sent to Mr Lavery's home, being the address held by HMRC for the appellant.

29. The appellant failed to comply with those conditions.

30. On 17 May 2017, Officer Elliott issued a formal warning to the appellant at the same address stating that it had failed to adhere to the conditions of its approval. It went on to warn that if there were any further incidents or failures to comply then "… it is likely your RDCO approval will be revoked".

31. On 7 June 2017, the appellant's bookkeeper contacted HMRC and explained that she had only just become aware of the requirement to submit additional information.

32. She provided some of the information twice between 7 June 2017 and 22 June 2017.

33. It is accepted by the appellant that not all of the information required by HMRC had been obtained.

34. After a preliminary examination of those returns, on 27 June 2017, Officer O'Hare issued a further formal warning to the company.

35. She pointed out that:

(a) It was noted that, prior to the discussion on 7 June 2017, the company had failed to supply any of the information that was a condition of its approval notwithstanding the fact that the letter setting out the conditions had been sent in the same envelope as the new approval number.

(b) There was a requirement to record the use for the fuel rather than what it was put into.

(c) Information such as postcodes, registration numbers, the make and model of the vehicle, the price paid, and the VAT registration numbers was missing.

(d) It appeared that there were occasional supplies to a boat and if that was a pleasure boat or a registered UK fishing boat then the appellant was required to register in order to supply such boats. If it was a pleasure boat the appellant would have to account for the duty.

(e) The majority of the postcodes were small domestic terraced houses or in housing estates and that it was not credible that all of those would own a tractor or digger or need fuel for such a vehicle.

(f) It was not credible that a customer would come in a car to collect fuel for a tractor.

(g) She would have expected to see larger volumes supplied to a tractor per supply given the low mileage per gallon.

36. Officer O'Hare telephoned the bookkeeper on 28 June 2017 to explain the letter and particularly the duty of care in respect of the information provided because the bookkeeper had confirmed that the staff simply recorded what customers said. The officer asked her to ensure that Section 5 of Notice 192 was read and understood. That explains in detail the obligation of a RDCO.

37. A further eight returns were filed between 29 June 2017 and 31 August 2017. Those eight returns were not always on time and they were still incomplete.

38. Officer O'Hare's examination of the information that was eventually submitted uncovered a number of inaccuracies such as:-

(a) One example of the data sent on 1 August 2017 referred to a "pram" collecting 96 litres of fuel which seemed improbable.

(b) Other entries did not show a vehicle being used to collect the rebated fuel and it seemed improbable that an individual would be able to carry some of the quantities, such as 58 litres, shown in the spreadsheets.

(c) The spreadsheets showed that the stated uses were still being recorded as "drum" and "tractor" when neither is a use. In an agricultural context the use could be shown as agricultural or contractual work.

(d) Some of the addresses that were provided in relation to the purchase of red diesel caused problems since, on checking, those premises were in fact small town houses. That raised the question as to where the tractor/digger would be stored.

(e) Some amounts appear to have been collected in a car rather than in the vehicle itself or in a van.

(f) Some of the information suggested that the fuel was being supplied to customers other than for use in excepted vehicles including a boat.

39. On 21 August 2017, Officer Elliott wrote to the appellant revoking its RDOC approval and setting out his reasoning for so doing. We record the detail at paragraph 68 below.

40. On 6 September 2017, the appellant requested a review of the decision.

41. On 21 September 2017, the appellant's representatives made further submissions in respect of the review.

42. On 10 October 2017, Officer Loughridge concluded the review.

Reasons for Decision

43. There was no dispute about the relevant legislation. It suffices to confirm that the FTT only has a supervisory rather than a full merits jurisdiction in relation to the decision which is the subject matter of this appeal, whether that be the original or the review decision.

44. Mr Elliott invited us to decide that we need only consider Officer Elliott's decision since that was the "relevant decision" in terms of Section 16 of the Finance Act 1994. He may well be right but it is not material to this decision since both officers came to the same decision, based on the same facts and for the same reasons. The only difference is that Officer Loughridge considered the failure to intimate the change in legal entity, which resulted in the

previous revocation, but in her oral evidence she confirmed that that had not been a major factor in her thinking.

45. Officers Elliott and Loughridge who, respectively, made the original and the review decisions were clear and credible witnesses.

46. We were presented with a very extensive Bundle extending to well in excess of 800 pages and further papers were tabled at the hearing. We have made extensive findings in fact in order to assess the reasonableness and proportionality of HMRC's decisions and reasons.

47. With the exception of one error, namely the fact that the January incident was an attempt to fuel rather than an actual fuelling we adopt the facts found by the officers as narrated above, together with a few further facts narrated below. We do not consider the fact that the January incident was an attempt rather than an actual fill of the tank to be a material factor. In particular, we accept Officer Elliott's statement that it made no difference to his decision. His concern, as was that of Officer Caldwell, was that the mere fact that an attempt was made by a vehicle that contained red diesel is indicative of knowledge that red diesel was readily available. We agree.

48. We found Officers O'Hare and Caldwell to be entirely credible. In particular, we accept their assertion that Mr Lavery had conceded that he had been the driver on 26 April 2016. However, it is not particularly material that he was the driver since by his own admission, at best, it would have been his brother driving his wife's car. That demonstrates very clearly that it was known that red diesel was available to fuel vehicles at the Filling Station.

49. Although Mr Lavery was very quick to deny that he had conceded that he had been the driver, and he continued to assert that it had been his brother John, he produced no evidence in regard to his brother John. He was not a witness. Mr Lavery insisted that whoever it was had not put any fuel into the vehicle. When challenged as to how he would know that if he had been six miles away, as he stated, he said that the CCTV proved it. However, the appellant did not keep the CCTV records or stills from them. He did not even produce a picture of his brother notwithstanding the fact that Officer Caldwell had said at paragraph 31 of his witness statement that he had identified Mr Lavery as being the driver.

50. We also accept the contemporaneous evidence from Officer O'Hare's handwritten notes that he told the officers that he did not have any "own use" of red diesel and that the business was still a partnership.

51. As far as "own use" is concerned, we can see from the records produced for the period 8 June 2017 to 16 June 2017, being a random sample but, at a glance the remaining records look very similar, of 48 sales recorded, 9 were to Mr Lavery and for a variety of vehicles. That is a high percentage. It is therefore not plausible that he simply overlooked his use.

52. In summary, Mr Lavery's evidence was not very credible. He tried to suggest that because the warning letter of May 2017 was sent to his home address it <u>might</u> have taken some time to get to the Filling Station. Three weeks is a long time and there is no explanation as to why, as with the 8 March 2017 letter, his wife would not have read it to him (see paragraph 55 below). There was no credible evidence for the delay.

53. On the balance of probability it was that warning letter which prompted Mr Lavery to give the 8 March 2017 correspondence to the bookkeeper on 7 June 2017 and thus her approach to HMRC on that day. We note that his witness statement makes no mention of the warning letter although he conceded in evidence that he had received it.

54. There was no plausible explanation as to why the letters of 8 March 2017 were not passed to the bookkeeper until 7 June 2016. Mr Lavery is aware that he is apparently illiterate, albeit that does not sit well with his ability to read the Oath in Court. When that was put to him he

then argued that his issue was comprehension. We observe that he coped well with the Tribunal proceedings.

55. However, if we accept that he has issues with literacy, he has been in business for very many years. He would therefore be expected to ensure that all "official" correspondence is either read to him or read by the bookkeeper. He did say that his wife had read one of the letters to him and it had not mentioned the need for weekly returns. We accept that neither the RDCO approval (which is not a letter) nor the letter from Officer Maughan mentioned the weekly return. However, that letter, which can be the only letter read by Mrs Lavery, states clearly in the second line: "Your Approval is subject to the additional conditions stated in the enclosed letter."

56. That makes the position absolutely clear. Even if the letter from Officer Elliott was not read, Mr Lavery should have been alerted to the fact that there were further conditions. Furthermore at the pre-approval visit on 27 January 2017, Officer O'Hare had warned him about the possibility of conditions being imposed (see paragraph 21 above). In all these circumstances, it was not reasonable for him to assert, as he did in his witness statement, that on getting the approval "…everything was fine and back to normal".

57. We have no credible explanation as to why proper records were not kept after all of the warnings. The bookkeeper conceded that some primary records such as receipts went missing between the till and her office. Quite why remains a mystery.

58. Mr Lavery's explanation as to why only monthly returns were submitted was that they had previously not had to record small amounts and "… so we carried on as previously …". Given the warnings that had been sent to the appellant, they should have known that even those returns were inadequate.

59. We do not accept Mr Lavery's assertion that "It took us a while to get going. We did our best."

60. Mr Lavery told the Tribunal that 86 litres of red diesel would be enough for one day's work for a digger. He could not explain why one of the reported sales on 2 July 2017 would be 5.03 litres for a digger. His only explanation for small sales, and there are quite a few, is that he just assumed that people had run out of fuel.

61. The transportation of 96 litres of fuel in a pram should have caused questions to be asked. (We found the picture on a telephone of a pram with a number of drums in it to be of no evidential value. It was produced without warning and with absolutely no information to reference it. We do not know whether the drums contained fuel.) It was put to Mr Lavery that that must weigh in excess of 70 or 80 kg (it does) and he said that that sort of thing happened. That is the size of a fully grown well-nourished reasonably tall man! It should have made staff suspicious.

62. On the balance of probability neither Mr Lavery, nor his staff asked many, if any, questions about the proposed use for the fuel that was purchased. That is a breach of an explicit obligation which has the force of law and is set out at 5.2 in Notice 192.

63. It is conceded in the appellant's Skeleton Argument at paragraph 29 that the appellant "…was unaware that it had to be registered to supply pleasure boats.". Mr Lavery and / or his staff should have been aware of that since that is clearly set out in Notice 192.

64. Although Mr Lavery was aware, or should have been aware, that one of Officer O'Hare's concerns, articulated at paragraphs 13 and 14 of her witness statement was that "…it appears that less kerosene is declared by the Appellant in sales than bought beyond the storage capacity, indicating that it is being sold but not being accounted for on the RCDO returns." he has adduced no evidence in that regard. The inference is that the returns are not only incorrect but very considerably understated.

65. Officer O'Hare confirmed that the figures for the quantities purchased by the appellant came from the supplier's returns and the quantities sold from the appellant's returns. In cross examination, the bookkeeper confirmed that this had been discussed at the visit on 26 October 2016. The discrepancy was about 80,000 litres in one month and so that would mean 4,000 drums being sold at the rate of 129 per day.

66. We accept Officer O'Hare's account to the effect that she had asked for more information on this point but there was no response. She had not pursued it further since she had been ill and had assumed that approval would not be granted.

67. This matter formed no part of the consideration by the decision maker but it was explored at some length in the hearing. We find it to be compelling evidence that there were significant inaccuracies in the returns for kerosene.

68. When Officer Elliott wrote to the appellant revoking its RDCO approval he referred to the following, namely:-

(a) At the visit on 27 January 2017 the letter dated 20 December 2016 had been handed over and it had referred to occasions when fuel was filled or attempted to be filled into the running tanks of road vehicles and that had occurred after the issue of a warning letter on 27 March 2013.

(b) The 2013 warning letter had also warned the appellant to keep primary records and not all of them appear to have been kept.

(c) In addition the details required in relation to supplies over 100 litres had not always been kept.

(d) The onus was on the appellant to ensure that staff were fully aware of the importance of complying with the RDCO scheme and to the duty of care to ensure that road vehicles were not filled.

(e) The appellant had not supplied weekly returns as requested in the conditions letter of 8 March 2017 until after the issue of the warning letter on 16 May 2017 and even then the details recorded were not as required.

(f) He quoted from the examples of deficiencies in the record keeping identified by Officer O'Hare in the further warning letter issued on 27 June 2017.

(g) He noted that there was some improvement in the record keeping but there was still missing information and information that was not credible.

(h) The letter concluded pointing out that all of these factors meant that the approval would be revoked.

69. We have found all of these facts to be proved.

70. We accept Officer Elliott's very clear view that whether or not he had believed that the November incident had been an actual filling of the tank or simply an attempt that would have made no difference to his decision. In his view an attempt to fuel a car was as weighty a matter as an actual fuelling because the driver believed that it was possible to do so. We accept that. For the avoidance of doubt, we accept that the November incident was an attempt but the January and April incidents involved actual filling of the tank.

71. Officer Loughridge confirmed that she had read all of the documentation provided by both HMRC and the appellant's representative.

72. She identified the primary criteria which were relevant for her and those were:

(a) The failures in record keeping, albeit there had been some improvement.

(b) The appellant's general approach to the RDCO including the failure to intimate the change in entity which had led to the previous revocation.

(c) The failure to comply with the weekly returns special condition.

(d) The failure to take heed of the warning letters which said that non-compliance might lead to revocation and which had provided guidance.

(e) The attempted and actual filling of tanks.

73. Having heard the evidence of Mr Lavery and the bookkeeper to the effect that the April incident was merely an attempt and the challenge in relation to whether Officer Elliott had thought that the January incident was an actual fuelling she had consulted her notebook. She had proceeded on the basis that there were two actual and one attempted filling of a tank. As indicated above we agree with that.

74. Mr Tierney argued that the original revocation of the license was a purely technical matter and should therefore be disregarded. To an extent it was disregarded in the sense that Officer Elliott did not take that into account. However, we agree with Officer Loughridge when she disagreed with Mr Tierney. In our view it shows a disregard for the provisions of Notice 192 which is consistent with the appellant's apparent ignorance of the obligations imposed on it by Notice 192.

75. There was clearly persistent and significant non-compliance. Withdrawal of approval was the culmination of a fully recorded process of proportionate action, including warning letters and a period of special conditions.

76. The officers patently took into account the multiple opportunities that the appellant was given to improve matters. Our review of the weekly returns shows that there was some limited improvement but it was decidedly limited. Notwithstanding all of the guidance the use is rarely described as "agriculture". Drum or washer or tractor does not suffice. Unless a vehicle which is registered for use on the road is registered as an agricultural vehicle and used for those purposes, then it cannot use red diesel.

77. As to the question of whether HMRC acted unreasonably or disproportionately, HMRC are simply required to take such action as is reasonable. The appellant did not comply with the provisions of Notice 192 and did not heed the warning letters sent to it. The appellant was warned of the risks of non-compliance and the likelihood of revocation of its licence in the event of non-compliance. It is fair to say that the appellant's attitude to compliance was reckless and necessarily presented a risk to the Revenue.

78. We are satisfied that the facts relied upon by HMRC in reaching the decision to revoke have become even more powerfully evidenced by the findings in fact that we have made[1]. Simply put, the basis for revocation, which we find to have been adequate at the time, became stronger as a result of the evidence that we heard. That is because the evidence for the appellant shed light on why the officers took the actions and came to the views that they did.

79. The burden of proof rests on the appellant, to show why HMRC was wrong in revoking its licence. It has not discharged that burden.

80. We are satisfied that HMRC's decision that the appellant is not a fit and proper person to be a RDCO was reasonably arrived at and proportionate. We are also satisfied that the facts upon which HMRC rely as reasons in support of their decisions have been established on the

[1] Balbir Singh Gora v C&E Commrs [2003] EWCA Civ 525

balance of probabilities, and to a high degree at that. All relevant considerations have been considered and all irrelevant considerations disregarded.

81. For all these reasons the appeal is dismissed.

RIGHT TO APPLY FOR PERMISSION TO APPEAL

82. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to "Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)" which accompanies and forms part of this decision notice.

ANNE SCOTT
TRIBUNAL JUDGE

RELEASE DATE: 15 JULY 2019