Neutral Citation: [2023] UKFTT 751 (TC)

Case Number: TC08931

FIRST-TIER TRIBUNAL
TAX CHAMBER

By remote video hearing

Appeal reference: TC/2022/02454

STAMP DUTY LAND TAX – strike out application – no appealable decision – no enquiry – amendment refused on basis of lateness only

Heard on: 12 June 2023
Judgment date: 05 September 2023

Before

TRIBUNAL JUDGE MCGREGOR

Between

RICHARD WARNER

Appellant

and

THE COMMISSIONERS FOR HIS MAJESTY'S REVENUE AND CUSTOMS

Respondents

Representation:

For the Appellant: Mr Warner

For the Respondents: Ms Nina Stuart, litigator of HM Revenue and Customs' Solicitor's Office

DECISION

INTRODUCTION

1. With the consent of the parties, the form of the hearing was a hybrid hearing. Mr Warner attended from a court room at the Birmingham Employment Tribunal centre and the remainder of the participants attended via video platform. The documents to which I was referred are a bundle of 209 pages, a witness statement of 5 pages from Mr Warner with 6 exhibits and Mr Warner's response to the strike out application.

2. Prior notice of the hearing had been published on the gov.uk website, with information about how representatives of the media or members of the public could apply to join the hearing remotely in order to observe the proceedings. As such, the hearing was held in public.

RELEVANT LAW

3. There is a list of decisions that can be appealed to this Tribunal in paragraph 35 of Schedule 10 to FA 2003. That paragraph reads as follows:

> 35(1) An appeal may be brought against -
>
> (a) an amendment of a self-assessment under paragraph 17 (amendment by Revenue during enquiry to prevent loss of tax),
>
> (b) a conclusion stated or amendment made by a closure notice,
>
> (c) a discovery assessment,
>
> (d) an assessment under paragraph 29 (assessment to recover excessive repayment), or
>
> (e) a Revenue determination under paragraph 25 (determination of tax chargeable if no return delivered).

4. Section 58D of FA 2003 deals with transfers involving multiple dwellings and provides:

> (1) Schedule 6B provides for relief in the case of transfers involving multiple dwellings.
>
> (2) Any relief under that Schedule must be claimed in a land transaction return or an amendment of such a return.

5. Paragraph 6 of Schedule 10 to FA 2003 deals with amendments of returns by a purchaser and provides as follows:

> (1) The purchaser may amend a land transaction return given by him by notice to the Inland Revenue.
>
> (2) The notice must be in such form, and contain such information, as the Inland Revenue may require.
>
> (2A) If the effect of the amendment would be to entitle the purchaser to a repayment of tax, the notice must be accompanied by—
>
> (a) the contract for the land transaction; and
>
> (b) the instrument (if any) by which that transaction was effected.
>
> (3) Except as otherwise provided, an amendment may not be made more than twelve months after the filing date.

6. The filing date is defined under paragraph 2 of the same schedule as the last day of the period within which the return must be delivered.

7. Section 76 of FA 2003 provided (at the relevant time) that this period was 30 days from the effective date of the transaction.

8. Paragraph 34 of Schedule 10 to FA 2003 provides the framework for claiming relief for overpaid tax:

> "(1) This paragraph applies where—
>
> (a) a person has paid an amount by way of tax but believes that the tax was not due, or
>
> (b) a person has been assessed as liable to pay an amount by way of tax, or there has been a determination to that effect, but the person believes that the tax is not due.
>
> (2) The person may make a claim to the Commissioners for Her Majesty's Revenue and Customs for repayment or discharge of the amount.
>
> (3) Paragraph 34A makes provision about cases in which the Commissioners for Her Majesty's Revenue and Customs are not liable to give effect to a claim under this paragraph.
>
> (4) The following make further provision about making and giving effect to claims under this paragraph—
>
> (a) paragraphs 34B to 34D,
>
> and (b) Schedule 11A.
>
> (5) Paragraph 34E makes provision about the application of this paragraph and paragraphs 34A to 34D to amounts paid under contract settlements.
>
> (6) The Commissioners for Her Majesty's Revenue and Customs are not liable to give relief in respect of a case described in sub-paragraph (1)(a) or (b) except as provided—
>
> (a) by this Schedule and Schedule 11A (following a claim under this paragraph),
>
> or
>
> (b) by or under another provision of this Part of this Act.
>
> (7) For the purposes of this paragraph and paragraphs 34A to 34E, an amount paid by one person on behalf of another is treated as paid by the other person.

9. Paragraph 34A provides a series of cases in which relief under paragraph 34 is not to be given by HMRC including:

> "Case C is where the claimant—
>
> (a) could have sought relief by taking such steps within a period that has now expired, and
>
> (b) knew, or ought reasonably to have known, before the end of that period that such relief was available."

BACKGROUND

10. The background facts were not in dispute and can be summarised as follows:

(1) Mr Warner acquired two adjacent plots of land in the Isle of Wight on 25 May 2016;

(2) On 1 and 6 June 2016, Mr Warner submitted land transaction returns (SDLT 1) for the two properties, which identified then as non-residential property. No claim for multiple dwellings relief (MDR) was included in these returns. The amount of SDLT was £58,500 for one property and £110,00 for the other, amounting to £168,500 for both properties;

(3) On 3 July 2018, Mr Warner wrote to HMRC requesting that SDLT should be recalculated on the basis that he had been unaware at the time of submitting the returns that he could have claimed MDR. He submitted that this would reduce the SDLT to £41,300.

(4) On 19 July 2018, HMRC replied to this letter. I will return to the full details of this letter later, but for the purposes of the background it is sufficient to say that the request was refused.

(5) On 12 August 2019, Mr Warner wrote again asking HMRC to reconsider the position, citing ill-health during the period starting September 2016 and requesting leniency, particularly in light of an outstanding bankruptcy proceeding being pursued by HMRC.

(6) On 17 October 2019, HMRC replied, maintaining their rejection of the late MDR claim. The letter referred to the relevant sections of the law, concluding "any request for MDR is time barred under Section 58D(2) and as explained above your SDLT1 returns can't be amended".

(7) On 1 November 2019, Mr Warner replied to that letter stating that he wished to appeal the decision and that he was intending to refer the matter to the first-tier tribunal.

(8) On 31 March 2022, Mr Warner notified an appeal to the Tribunal.

(9) On 28 July 2022, the case was allocated to the basic track and directions were issued to proceed.

(10) On 8 September 2022, HMRC made an application to strike out the appeal.

(11) On 9 December 2022, Mr Warner submitted his representations against the strike out.

(12) None of the SDLT set out in the returns has been paid to HMRC.

PARTIES ARGUMENTS

HMRC's application

11. HMRC submits that there is no appealable decision and that therefore the appeal is outside of HMRC's jurisdiction.

12. HMRC argue that they have not opened an enquiry into the SDLT returns and have not issued a closure notice.

13. Their actions in response to the 3 July 2018 claim letter were simply to refuse the claim, explaining that the refusal was based on non-compliance with time limits. This response did not open an enquiry. They rely on the decision of the Court of Appeal in *Raftopoulou* and the Upper Tribunal in *Portland Gas* in support of this position.

14. HMRC also submit that Mr Warner's correspondence with their debt management teams also did not constitute the opening or operation of any enquiry.

15. HMRC submit that they have not made any of the decisions listed at paragraph 35 of Schedule 10 to Finance Act 2003, which provides a list of appealable decisions.

16. Since there is no appealable decision, there is no appeal for Mr Warner to notify to the Tribunal under Paragraph 36A(2)(c) of the same Schedule.

17. HMRC also refer to the decision in *Secure Service v HMRC* [2020] UKFTT 59 (TC) which concluded at [67] that the Tribunal "… has no jurisdiction to hear an appeal against HMRC's refusal to allow a late claim for multiple dwellings relief…".

18. HMRC also submit that there are no circumstances in which the words "except as otherwise provided" are engaged with regards to an amendment to a SDLT return. They rely on the Court of Appeal's decision in *Candy* in support of this position.

19. In the alternative, HMRC submit that since no dwellings were purchased, a claim to MDR would not have been appropriate and a claim under Case A of paragraph 34 (for overpayment relief) would not succeed. They rely on the wording of section 58D to conclude that a claim for MDR cannot be made using paragraph 34 since that would override the statutory time limit. They rely on *Secure Service* in support of this position.

The appellant's submissions

20. Mr Warner submits that there has been an appealable decision and that therefore the strike out should not be granted.

21. He submits that HMRC opened an enquiry into his SDLT returns and that this was apparent from his correspondence with the debt management team (DMEIS) and others. He states that it was clear from correspondence and telephone calls that HMRC retained an "open mind" as to whether he could make a claim for MDR and therefore there must have been an enquiry. One of the letters from the DMEIS explained the procedure for making a claim, which, he argued, supported the fact that HMRC was making further enquiries.

22. In support of this, he relies on *Portland Gas* as the basis for the absence of a need for formality in the opening of an enquiry. He argues that what HMRC did amounted to the opening of an enquiry and that he was under the impression that an enquiry was ongoing.

23. He also submits that HMRC issued a closure notice when they refused his claim and that this was the appealable decision.

24. In the alternative, if HMRC has not issued a closure notice, Mr Warner argues that this Tribunal has the power to direct one under paragraph 24 of Schedule 10 to FA 2003.

25. Mr Warner also argued that the words "except as otherwise provided" in paragraph 6(3) of Schedule 10 to FA 2003 should be exercised in this case as a matter of common sense to allow a longer period for a claim to make an amendment.

26. He also raised arguments based on his ill-health, specifically being admitted to hospital in September 2016, and again in March 2017 for issues related to a detached retina that resulted in him being unable to work for several months; and a further admission to hospital following a serious fall in September 2017. He argued that he would have been able to make the claim in time if he had not suffered these periods of ill-health.

27. In the alternative, Mr Warner submits that the claim set out in his July 2018 claim letter should be treated as an overpayment claim pursuant to paragraph 34, which has a 4-year time limit. This claim was submitted well within the 4-year time limit and he was therefore not out of time. Specifically, he relies on paragraph 34(2) which allows for a claim "for discharge of the amount", arguing that it was not due in the first place.

APPLICATION OF TIME LIMITS TO THE FACTS

28. The following application was not disputed:

(1) The filing date for both properties was 24 June 2016 (being 30 days after the effective date).

(2) The standard twelve months for amending the return expired on 24 June 2017.

DISCUSSION

29. I have the following points to decide:

(1) Did HMRC make an appealable decision, which requires me to consider:

(a) Whether an enquiry was opened into the SDLT returns;

(b) Whether a closure notice was issued;

(c) If not, can this Tribunal nevertheless direct HMRC to issue a closure notice?

(2) Does the proviso "except as otherwise provided" extend the time limits for making the amendment?

(3) Can the claim be treated instead as an "overpayment claim" with its 4-year time limit?

30. In considering the first question, I have the benefit of the earlier decisions in *Portland Gas, Raftopoulou* and *Secure Service.*

31. In *Portland Gas* [2014] UKUT 270, the Upper Tribunal considered whether the taxpayer had amended their land transaction return within the statutory time limit. Although it related to an agreement for lease, the same legislative provisions apply.

32. The Upper Tribunal considered that it needed to answer three questions (paragraph 31):

> "(1) Did HMRC's response of 12 August 2012 or any of its later letters show that it had opened an enquiry into the amended return;
>
> (2) If so, did any of those letters amount to a closure notice giving rise to a right of appeal under paragraph 35(1)(b); or
>
> (3) If none of those letters amounted to a closure notice did any of them give rise to the right to ask the FTT for a direction that a closure notice be issued with the consequence that an appealable decision would thereupon arise under paragraph 35(1)(b) of Schedule 10?

33. The Upper Tribunal found that HMRC's actions following Portland's letter amending the return did amount to the opening of an enquiry, noting (at paragraph 46):

> "In our view the further steps that it took, namely to seek legal advice on the arguments raised by Portland, did amount to an enquiry within the ordinary meaning of that term. In essence, the question is one of degree and in our view the further steps taken indicate the undertaking of an "examination", "investigation" or "scrutiny" of the return."

34. They went on to conclude that the same letter was sufficient to be a notice of HMRC's intention to enquire into the return, noting (at paragraph 48) that:

> "a notice of enquiry need not be in any particular form, the only requirement being that it gives notice of an intention to enquire into a land transaction return. In our view the letter of 6 September 2012 achieved that. In our view consistent with the policy in section 83(2) FA 2003, a communication should be regarded as giving notice of an intention to enquire provided the intended effect is reasonably ascertainable by the person to whom it is directed. In our view Portland would clearly ascertain from HMRC's letter that there was an intention to enquire further into the return in the light of the further submissions made by Portland's solicitors."

35. They went on to conclude that later correspondence amounted to a closure notice and that therefore an appealable decision had been made.

36. HMRC were given permission to appeal this decision to the Court of Appeal. However, Portland withdrew their appeal and attempt to amend their SDLT return before the hearing and therefore no substantive hearing of the case was heard by the Court of Appeal.

37. In *Raftopoulou* [2018] EWCA 818, the Court of Appeal did have a chance to consider a substantive issue of a similar nature, albeit not in relation to SDLT. They had to decide whether HMRC's rejection of her income tax repayment claim gave rise to a right of appeal.

38. The Court of Appeal framed the questions in the following way (paragraph 36):

> "There can be no enquiry into a claim without HMRC giving the notice required by paragraph 5. Whether the letter or other communication in question gave the necessary notice depends on whether it would be read by a reasonable recipient in the position of the taxpayer as doing so. The same is true of any document said to be a closure notice. These are questions of law."

39. The Court of Appeal decided (paragraph 40):

> "a rejection by HMRC of a claim on the grounds that it is out of time, by reference to no more than the claim itself and a calculation of the applicable time limit, does not involve any use by HMRC of their statutory powers to enquire into the claim nor does it constitute notice of an intention to do so."

40. It went on to say (paragraphs 49-50):

> "The statute is clear: once a decision is taken to open an enquiry, the HMRC officer must give notice to the taxpayer of his intention to enquire into the claim. Under the scheme of these provisions, the notice precedes the enquiry under paragraph 5 and alerts the taxpayer to the start of a formal process with its attendant statutory powers available to HMRC.
>
> 50. I conclude therefore that HMRC's letter in this case could not serve both as a notice under paragraph 5 and as a closure notice under paragraph 7. I find it difficult to think that the same document could ever serve as both but, as not every circumstance can be foreseen, I do not express a concluded view."

41. With these decisions and principles in mind, my first question is to consider whether the correspondence from HMRC could be read as giving notice of an intention of HMRC to enquire into the return.

42. The substance of the letter from HMRC dated 19 July 2018 was as follows:

> "Thank you for your letter dated 3 July 2018. I received this letter on 6 July 2018.
>
> Section 58D of the Finance Act 2003 states that claims for Multiple Dwellings Relief (MDR) must be made in a land transaction return or in an amendment to a return. Under Paragraph 6 of Schedule 10 to the Finance Act 2003, an amendment can be made no later than 12 months after the filing date for the return. The filing date for a land transaction return is 30 days after the effective date of the transaction.
>
> The filing date for this transaction was 24 June 2016. The deadline for an amendment to the return was 24 June 2017. As your request was received after this date I am unable to process it as an amendment. There is no right of appeal against a refusal to process a late amendment.
>
> As a claim for MDR can only be made in a return or an amendment to the return I cannot consider your request under any other part of the SDLT legislation.
>
> Therefore, £109,500 Stamp Duty Land Tax (SDLT) remains outstanding on this account."

43. The letter went on to consider the interest that would be payable on the outstanding SDLT because none of it had ever been paid.

44. The letter of the same date related to the second transaction was in identical terms, save for the value of the SDLT.

45. In my view, this letter falls squarely into the description used in *Raftopoulou.* It was a rejection of the claim *"*by reference to no more than the claim itself and a calculation of the applicable time limit".

46. No reasonable taxpayer could have interpreted this letter as constituting a notice of an intention to enquire further. Unlike in *Portland Gas*, there was no mention of HMRC's need to seek further information from internal or external sources. It simply sets out the time limits that apply to a claim for MDR and the relevant dates for these transactions before concluding that the claim is out of time and cannot be processed.

47. I must next consider whether the later correspondence from HMRC can be treated as a notice of enquiry. Mr Warner pointed in particular to a letter from DMEIS on 7 June 2019. The bulk of the letter dealt with the matter at hand, which was an application by Mr Warner for set aside in the context of potential bankruptcy proceedings by HMRC. The letter included the following section (emphasis in the original):

> "I am prepared to withhold further enforcement proceedings for a period of 3 months to allow you time to submit a formal MDR application to the stamp duty office and for you to receive a formal decision letter of response from them. As discussed this has the possibility of two outcomes. Your debt balance may be reduced or you will receive confirmation that you are out of time to make a claim.
>
> If the latter formal decision is delivered from the stamp duty office and you disagree with the decision you can then submit an appeal application to the Tribunal Court. This would mean that HMRC would not be able to proceed with enforcement action until your tribunal case has been heard and a decision delivered. ***Please note if you do appeal and the tribunal office does not accept your application because you have not completed the application correctly or your case does not fulfil the appeal criteria HMRC would then recommence their enforcement action. To avoid this, payment in full would need to be made or an effective repayment plan negotiated and agreed within 14 days."***

48. Mr Warner suggests that this is evidence that HMRC were keeping an open mind about whether an MDR claim could still be made and that is evidence of an enquiry being open.

49. There are features in that letter which support Mr Warner's position, namely the suggestion of being allowed time to submit a formal MDR claim and the implication that an appeal could be made to this Tribunal where HMRC have made a decision that a claim is out of time.

50. We did not have evidence from the officer concerned within DMEIS and so we don't know whether these were included because she was not aware that Mr Warner had already made a claim that had been rejected as out of time and was not aware that such a decision was not appealable or because she made mistakes in drafting the letter.

51. However, in my view, these factors are not enough to be able to reach a conclusion that this letter was evidence of a notice of intention to enquire. At most, the letter provides Mr Warner with encouragement to make another claim. The letter also makes a clear distinction between matters within the purview of DMEIS and those within the purview of the "Stamp Duty office" who would actually deal with such claims. A reasonable taxpayer in Mr Warner's position would have been able to understand the difference between the two parts of HMRC

and that the officer from DMEIS was not stating that the stamp duty office would open an enquiry.

52. Given I have concluded that there was no enquiry opened, there is no question of whether there was a closure notice or a right to require HMRC to issue one.

53. On the first question, therefore, I find that there has not been an appealable decision in relation to a claim for MDR.

54. I will now move on to considering whether the proviso "except as otherwise provided" in paragraph 6(3) extends the time limits for making the amendment.

55. The Court of Appeal in *Candy v HMRC* [2022] EWCA Civ 1447, have considered the interaction between paragraph 6(3) and a claim for repayment under section 44(9) of FA 2003. Mr Candy sought to rely specifically on the words "except as otherwise provided" in order to enable him to make the claim outside of the 12-month limit.

56. HMRC sought to rely on the following paragraphs 50-51 to support their argument that there are no statutory exceptions that extend the time limit beyond 12 months:

> "50. Nor can I see any rational reason why Parliament would have wished to dispense altogether with the generally applicable time limit in paragraph 6(3), enabling taxpayers to make claims for repayment without any time limit, even decades later when memories may have faded and documents relating to the original land transaction may have been lost. There is nothing inconsistent in Parliament providing a right to reclaim tax paid as a safeguard for innocent taxpayers caught by the widely worded charge in section 44(4), but at the same time making that right subject to clear procedural rules, including time limits on the right to reclaim payment. It is of the essence of a self-assessment system that tax effects can be undone by administrative failure and merely meeting the substantive conditions for the grant of a relief is rarely enough to secure that a taxpayer receives the relief in question. Where the relief requires a claim, and the claim is not made in accordance with any procedural requirements, the taxpayer will not be given the relief.
>
> 51. Moreover, hard-edged time limits are a common feature of the self-assessment scheme. Where they govern the availability of a relief, they have the inevitable potential to cause hardship. In the case of section 44(9), a balance between the competing objectives of preventing tax avoidance on the one hand, and relieving innocent transactions caught by section 44(4) on the other, was clearly intended by Parliament. Since the longer the period of substantial performance lasts without completion of the contract, the more likely it is the purchaser will have obtained benefits under the contract in a way that justifies maintaining the SDLT charge, it was rational to strike that balance with a time limit of 13 months for amending the return from the effective date of the transaction giving rise to substantial performance (in other words, 12 months after the filing date). This limits the scope for avoidance but is simple to operate (for both HMRC and taxpayers). I can see no good reason why the unambiguous, hard-edged time limit in paragraph 6(3) should yield to section 44(9) as Mr Thomas contended. The consequence of Mr Thomas' construction is to dispense with certainty and finality in the sound administration of SDLT. That would be a surprising result."

57. Mr Warner sought to distinguish *Candy* on the basis that it was not dealing with a MDR claim. He pointed to paragraphs 53 and 54 of the decision to support his position:

> "53. Accordingly, in my judgment the word "afterwards" does not provide an (otherwise unarticulated) exception to the time limit generally applied by paragraph 6(3) for making amendments. It has nothing to do with time limits at all. Once the duty to repay arises, the second sentence of section 44(9) requires a claim to be made by way of amendment of the original return. That can only be done in the period specified by paragraph 6(3).
>
> 54. I recognise that the consequence of this conclusion is that the words in paragraph 6(3) "Except as otherwise provided" had no substantive effect on enactment. The presumption that all words in a statutory provision should have substantive effect is a presumption that can be displaced. In any event Mr Thomas does not dispute that those words could have been intended to be forward looking only, to account for future amendments. While that may be regarded as an odd drafting technique since a future amendment could have inserted those words when a subsequent exception was introduced, I agree with the UT that the words are likely to have been included in Part 4 FA 2003 as a helpful aid to the reader, to point out for the future, that the generally applicable time limit might be countermanded elsewhere."

58. Mr Warner is of course correct that *Candy* does not deal with a MDR claim. However, the decision sets out principles for the interpretation of the SDLT provisions and paragraph 6(3) specifically. I cannot see any basis on which I can diverge from it in the context of a .

59. In any event, in my view, the words "except as otherwise provided" are intended to provide a reference point to other provisions within the legislation that could provide for a different time limit. They do not allow for a general discretion not to apply the limit, as is suggested by Mr Warner.

60. Applying the principles in *Candy*, I must consider the purpose of Schedule 6B. It is clear from the face of the legislation that it is intended to deal with transfers of more than one dwelling either in the same transaction or in two linked transactions. In those circumstances, a relief from SDLT applies which is designed to achieve the effect that the rate of SDLT payable is the same as it would have been had each dwelling been acquired individually and not with other dwellings. This is achieved by dividing the total consideration for the dwellings by the number of dwellings acquired to find the average price. The rate of SDLT is then based on that average price instead of on the total consideration and the SDLT payable is multiplied by the number of dwellings acquired.

61. Section 58D(2) then requires that such relief must be claimed in a land transaction return or an amendment to a return.

62. Paragraph 6(3) then requires that any such amendment is made within 12 months of the filing date.

63. Respectfully adopting the conclusions of the Court of Appeal in *Candy,* there is nothing inconsistent in Parliament providing a right to reduce the amount of SDLT payable where more than one dwelling is acquired in the same or linked transactions, but at the same time making that right subject to clear procedural rules, including time limits on the right to claim that relief.

64. That is what paragraph 6(3) does in the context of a claim for MDR and there is no facility for HMRC, or this Tribunal, to apply a different time limit due to ill health or external circumstances that have occurred after the transaction to acquire the property.

65. I turn finally to the possibility of applying the overpayment relief provisions in paragraph 34 of Schedule 10 to FA 2003.

66. Mr Warner submits that he can rely on paragraph 34 in order to be able to make his claim within a 4-year period, rather than 12 months and that his letter making the claim could be interpreted as being a paragraph 34 overpayment relief claim.

67. HMRC submits that paragraph 34 claims do not override other existing claims rules and that paragraph 34A(4) makes that clear.

68. I find that overpayment relief is not relevant in this case. A claim for MDR is not a claim for overpayment relief. The SDLT payable (I note that it was not in fact paid) by Mr Warner was the SDLT set out it in the returns. The avenue for him to reduce that amount through MDR was through an amendment to his returns in accordance with section 58D, not under paragraph 34.

69. In any event, if it could have been achieved using an overpayment relief claim, HMRC would have been within their rights to refuse it pursuant to case C because there is a time-limited means of making the claim but Mr Warner did not use it.

70. This is aligned with the decision of the First-tier Tribunal in *Secure Service Limited v HMRC* [2020] UKFTT 59.

71. Mr Warner raised matters that occurred after the purchase of the two plots of land, including the lender going into liquidation, depressed valuations of the land, delays in the local authority granting permission for the proposed development. I have seen this evidence and for completeness, I note that none of it is relevant to the question at hand, that is whether an appeal can proceed in this Tribunal.

72. For the reasons I have given, I find that no appealable decision has been made by HMRC and there are no other issues that can be determined by the Tribunal. Therefore I must strike out the appeal in accordance with the Tribunal Procedure Rules for lack of jurisdiction.

RIGHT TO APPLY FOR PERMISSION TO APPEAL

73. 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.

ABIGAIL MCGREGOR
TRIBUNAL JUDGE

Release date: 05th SEPTEMBER 2023