



TC01387

Appeal number TC/2010/6677

**VAT – INPUT TAX – HMRC’s reason for denial of input tax had no basis in law –
Appeal allowed by consent**

FIRST-TIER TRIBUNAL

TAX

DIFFERENT KETTLE LIMITED

Appellant

- and -

**THE COMMISSIONERS FOR HER MAJESTY’S
REVENUE AND CUSTOMS**

Respondents

**TRIBUNAL: MICHAEL TILDESLEY OBE (TRIBUNAL JUDGE)
DAVID EARLE**

Sitting in public at Vintry House, Wine Street Bristol BS1 2BP on 4 August 2011

**Michael Jones counsel instructed by Pinstripe Accountants and Business Advisors for
the Appellant**

Christopher McMeeken, HM Inspector of Taxes, for HMRC

DECISION

The Appeal

1. The Appellant appealed against HMRC's decision dated 15 February 2010, confirmed on review dated 21 July 2010 which denied a VAT credit for input tax in the sum of £2,566 for period 1 November 2009 to 30 November 2009 resulting in an amendment to the Appellant's VAT return.
2. The disputed VAT credit related to supplies of mailing lists to the Appellant which were used in onward supplies of direct mail packs to charities for fundraising. HMRC refused the VAT credit because the provision of mailing lists to the charities was in its view a separate standard rated onward supply from the onward supplies of direct mail packs.
3. HMRC accepted that its reason for refusing the VAT credit for input tax had no basis in law. HMRC's reason related to the VAT liability of the Appellant's onward supplies to the charities not to the Appellant's entitlement to repayment of the VAT on the supplies made to it.

Application to Amend the Grounds of the Appeal

4. The Tribunal granted with the consent of the HMRC the Appellant's application to amend the grounds of Appeal in the Notice dated 18 August 2010 by substituting the contents of section 7 with the following wording:
- “Appeal against HMRC's amendment to the Appellant's VAT return for the period 11/09 by which amendment HMRC denied the Appellant credit for input tax in the sum of £2,566.
- The Appeal is made on the basis of the Appellant was entitled to full credit for all input tax it incurred for the period 11/09 pursuant to sections 25 & 26 of the VAT Act 1994”.

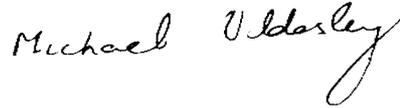
Decision

5. HMRC conceded that it had no legal basis for denying the VAT credit for input tax in the sum of £2,566 for period 1 November 2009 to 30 November 2009. The Tribunal, therefore, allows the Appeal with the consent of HMRC.
6. The parties will seek to reach agreement on the question of wasted costs (including unreasonable conduct) by no later than 4pm on 4 September 2011. In the absence of agreement, the Appellant has leave to make application to the same Tribunal by no later than 4pm on 4 October 2011.
7. 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.

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A handwritten signature in black ink that reads "Michael Uddlesley". The signature is written in a cursive style with a large, looping 'y' at the end.

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TRIBUNAL JUDGE
RELEASE DATE: 9 August 2011

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