



TC01641

Appeal number: TC/2011/06608

***VAT surcharges – time to pay agreements – entered into after due dates
– no reasonable excuses***

FIRST-TIER TRIBUNAL

TAX

SLIDEROBES (NI) LTD

Appellant

- and -

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

Respondents

TRIBUNAL: ALASTAIR J RANKIN (TRIBUNAL JUDGE)

**Sitting in public at Tribunals Unit, 3rd Floor, Bedford House, 16-22 Bedford
Street, Belfast, BT2 7DS on 5 December 2011**

**Mr John Corbett instructed by the General Counsel and Solicitor to HM
Revenue and Customs, for the Respondents**

DECISION

1. The Appellant company in a letter to the Respondents dated 16 June 2011 indicated it wished to appeal against VAT default surcharges for the quarters ending 11/09, 02/10, 05/10, 08/10, 11/10 and 02/11.

2. The Respondents by letter dated 27 July 2011 indicated they had reviewed the default surcharges but had concluded that the Appellant company did not have a reasonable excuse for the defaults.

3. By letter dated 19 August 2011 the Appellant company appealed five of the six surcharges referred to in paragraph 1. As no mention is made in this letter of the surcharge of £3,334.41 for the quarter ending 11/09 it cannot form part of this appeal decision though Mr Corbett informed the Tribunal the surcharge has been reduced to £1,333.76.

4. The surcharge of £6,769.26 imposed for the quarter ending 02/10 arose due to the late receipt of the tax due amounting to £67,692.63 which was paid by three instalments of £23,000.00 on 14 June 2010, £23,000.00 on 5 July 2010 and £21,692.63 on 30 July 2010. The Appellant company in the letter dated 16 June 2010 maintained that these payment arrangements were made in accordance with a verbal plan agreed with the Respondents.

5. Mr Corbett advised the Tribunal that no approach to the Respondents, verbal or in writing, had been made by the Appellant company by the due date and therefore although the payment plan had been agreed after the due date the default surcharge applied although it had been reduced to £3,384.63.

6. The surcharge of £14,651.70 for the quarter ending 05/10 arose due to the late receipt of the tax due amounting to £97,678.30 which was paid by three instalments of £37,000.00 on 13 July 2010, £37,000.00 on 28 August 2010 and £23,678.30 on 10 September 2010. The Appellant company in the letter dated 16 June 2010 maintained that these payment arrangements were made in accordance with a verbal plan agreed with the Respondents.

7. Mr Corbett advised the Tribunal that the Respondents had no record of any approach, verbal or in writing, by the Appellant company and therefore the default surcharge applied although it had been reduced to £9,767.83.

8. The surcharge of £6,065.88 for the quarter ending 08/10 had been reduced to nil and accordingly did not form part of the current appeal.

9. There was no surcharge for the quarter ending 11/10 as a valid agreement for time to pay had been put in place by the due date.

10. The surcharge of £11,570.57 for the quarter ending 02/11 arose due to the late receipt of the tax due amounting to £77,137.14 which was paid by three instalments each of £25,712.38 on 14 April 2011, 27 April 2011 and 2 June 2011.

11. Although the Appellant company referred in the letter dated 16 June 2011 to a provisional agreement of a plan to pay over three instalments Mr Corbett advised the Tribunal that no contact was made by the Appellant company until 20 April 2011 which was after the due date for payment and therefore the default surcharge applied.

12. No reasonable excuses have been offered by the Appellant company for the delay in entering into the time to pay agreements. It is quite clear from the literature sent by the Respondents to all VAT taxpayers that such agreements must be entered into before the due dates.

13. The Tribunal accepts the submissions made by Mr Corbett and accordingly dismisses the appeal and upholds the following default surcharges as the appropriate time to pay agreements had not been entered into by the Appellant company with the Respondents by the due dates:

Quarter ending 02/10 reduced to £3,384.63

Quarter ending 05/10 reduced to £9,767.83

Quarter ending 08/10 reduced to Nil

Quarter ending 11/10 No surcharge

Quarter ending 02/11 upheld at £11,570.57

In addition the default surcharge for the quarter ending 11/09 reduced to £1,333.76 remains as it did not form part of this appeal.

14. 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.

TRIBUNAL JUDGE
RELEASE DATE: 8 December 2011