



TC02034

Appeal number: TC/2011/04182

VAT and Excise Duties – Repayment – Review Officer’s Decision – Whether reasonable – Yes – Appeal Dismissed

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

DEREK WILLIAM FRANCIS

Appellant

- and -

THE DIRECTOR OF BORDER REVENUE

Respondents

TRIBUNAL: JUDGE DR K KHAN

Paper Case 24 Feb 2012

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DECISION

Introduction

5 1. The disputed decision of the Respondents is contained in a letter dated 5 May
2011, in which the Appellant was notified that he would not receive a refund in
respect of customs charges imposed upon a package sent to him from New Zealand
("the disputed sum") and that the customs charges applied would be upheld. The
disputed sum is to the value of £258.37 – this comprises Customs Import Duty of
10 £190.13 and import VAT of £168.24 and there is a separate £13.50 Parcelforce
clearance fee Ref -EC 390607744GB/2980

Background Facts

15 2. The Appellant had been sent a package from New Zealand. This package
contained clothing which was said to be clothing purchased by the Appellant and his
partner in New Zealand for personal use during their stay and on their return to the
UK for personal use.

20 3. On 1 February, at Coventry International Hub, a package addressed to the
Appellant was intercepted by Officers of the Respondents. The customs declaration
which accompanied the package gave the following information regarding the
contents:

- The contents were described as a gift of clothing.
- 25 • The value of the package was declared as 1,465 .00 NZD.
- Postage value 89.55 NZD.

4. Consequently, Officers of the Respondents were satisfied that customs charges
were applicable on the importation of these goods.

30 5. By a letter dated 7 February 2011, the Appellant advised that the parcel
contained clothes which were purchased by the Appellant and his partner as gifts to
each other and were worn while spending 2 months in New Zealand. The clothing had
no price tags. They were personal items of clothing which the Appellant could not fit
35 into his suitcases and were not intended for resale. The Appellant advised that taxes
were paid on the goods in New Zealand.

6. On 16 February 2011, an Officer of the Respondents spoke with the Appellant
by telephone when the Appellant again advised that the package contained personal
40 belongings. The Officer advised the Appellant to fax the Form C3 "Bringing you
personal belongings to the United Kingdom from outside the European Community"
and the matter would be reviewed.. The Officer advised the Appellant that based on
the declared value of the package, the charges due on the package totalled £258.37.

7. The Appellant's faxed Form C3 stated that the Appellant was returning to the EC(UK) after a 50 day temporary visit to New Zealand Eight articles of clothing purchased in New Zealand between December 2010 and January 2011 were being imported and all items were for personal use in New Zealand and in the UK. The articles of clothing were listed as being – 1x black modern coat, 1x turquoise cardigan, 1x purple cardigan, 1x mauve wrap, 1x turquoise wrap, 1x forest green cardigan, 1x scarf and 1x pair of socks.

8. The Appellant spoke with an Officer of the Respondent who advised that as the personal belongings had not been owned and used for 6 months, he was satisfied that customs charges were due on the importation of these goods. The Appellant was advised again of the customs charge of £258.37.

9. The Appellant in a letter dated 17 February 2011 advised the Respondents that the items were garments received and some purchased in New Zealand. They were worn there and brought back to the UK, they were not for sale.

10. The Appellant stated that the goods should be eligible for relief from the customs charges as taxes were paid in New Zealand. He was first told by Coventry International Hub that there were no charges and later, the same day, told there were charges.

11. Customs Import Duty at a rate of 12% and import VAT at a rate of 20% were charged on the declared value of the package (£751.09). This resulted in customs charges of £258.37 being imposed on the goods. Further, the package was delivered by Parcellforce Worldwide, who charged a clearance fee of £13.50, which was added to the charges.

The Appellant's case

12. In his Notice of Appeal, dated 2 June 2011, the Appellant raised the following grounds of appeal:

“I believe that the HMRC decision is unfair and unjust and does not take any account of the fact that the goods were purchased and worn, so are second hand and not for resale. Further the UK Border Agency in a telephone enquiry said that the charge would be lifted and then changed their mind. This again is unfair.”

13. The Tribunal finds:

(1) The decision of the Review decision to apply customs charges was reasonable for the followings:

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(a) The disputed sum was imposed in accordance with applicable law;

(b) The Respondents reasonably concluded that the goods were not eligible for relief from customs and VAT duties;

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(c) The fact that the goods were for own use and that taxes were paid in New Zealand were not relevant considerations.

14. Appeal dismissed.

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15. 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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**DR K KHAN
TRIBUNAL JUDGE**

RELEASE DATE: 5 April 2012

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